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***State  
of  
the  
Attorney  
Discipline  
System  
Report***

**Honorable Deborah T. Poritz**  
Chief Justice  
Supreme Court of New Jersey

**David E. Johnson, Jr.**  
Director  
Office of Attorney Ethics

# OFFICE OF ATTORNEY ETHICS



## SUPREME COURT OF NEW JERSEY

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August 6, 2004

### TO THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE SUPREME COURT

It is my pleasure to present to the Court the 20th issue of the State of the Attorney Discipline System Report covering all programs assigned to the Office of Attorney Ethics.

Discipline was down, while the number of grievances increased in 2003. After the Court meted out a record high number of disciplinary sanctions (269) in 2002, the number of sanctions (193) imposed in 2003 returned to more traditional levels.

At the same time, the disciplinary system saw sustained growth in the number of grievances filed and investigations conducted. For the fourth year in a row, grievances docketed grew, as 1,703 cases were added, compared to 1,472 last year. Since 1999, the number of filings increased by 31.6%. The system is working hard to meet this challenge. However, caseload growth and other factors have increased backlogs at both the district level and at the OAE. As of year-end, the percentage of OAE investigations within time goals stood at 61%, while district committees' inventory was below 80%.

For 2003, the Court reallocated two investigators from the OAE's District Group to its Complex Group. Moreover, in order to help turnaround the four-year backlog trend, the Court announced in December that it will add three new disciplinary auditors to OAE staff for 2004 and will transfer three more investigators. These personnel additions, together with OAE management efforts, will help to address the situation. As the OAE becomes more current in its work over the next several years, district committees will also benefit from the OAE's ability to assume more complex cases. Meanwhile, district committee officers and the OAE continue to focus almost 500 volunteers on meeting increasing workload requirements.

Fee arbitration committees ruled on over \$18.2 million dollars in disputed legal fees in 2003. For the fourth year out of the last five, the fee program cleared its calendar by disposing of more matters than were docketed. The Attorney Fee Arbitration Program continues to serve the public and the bar by providing the speedy and confidential resolution of disputes over lawyers' bills. Over 290 attorneys and public members volunteer their time to serve the Court by implementing this successful program.

The Random Audit Program is steadfast in its efforts to monitor fiduciary accountability by private practice law firms in the state. In 2003, the program conducted 386 random audits. The overwhelming number of law firms audits (98.8%) demonstrate acceptable trust accounting practices. Minor deficiencies are promptly corrected. Where serious problems are found (1.2% of audits), random auditors handle these cases as disciplinary matters after the random audit is closed. Due to the OAE's backlog, random auditors are also helping the disciplinary system with some disciplinary cases.

The OAE is in the midst of a multi-year computerization effort. A new ethics recordkeeping system has been installed. In 2004, we will implement document imaging and scanning. We will also begin to reengineer our fee arbitration and random audit computer systems. These changes will enhance our preparedness and our ability to manage all of our systems.

Respectfully submitted,

A handwritten signature in black ink, reading "David E. Johnson, Jr.".

David E. Johnson, Jr., Director  
Office of Attorney Ethics

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# **ATTORNEY DISCIPLINE SYSTEM**

## **Chapter One**





**“Today, we again reaffirm the rule announced in *Wilson* and hold that disbarment is the appropriate sanction in cases where it has been shown, by clear and convincing evidence, that an attorney has knowingly misappropriated client funds. We accept as an inevitable consequence of the application of this rule that rarely will an attorney evade disbarment in such cases. Public confidence in the “integrity and trustworthiness of lawyers” requires no less.” (Citing *In re Wilson*, 81 N.J. 451, 456)**

**Chief Justice Deborah T. Poritz**  
*In re Greenberg*, 155 N.J. 138, 151 (1998)



## 2003 Highlights

The number of grievances docketed in 2003 reached an all-time high of 1,703 cases. This continues the trend begun five years ago (**Figure 1**), during which the number of grievances added increased by 31.6% (**Figure 2**). During this same period, the number of matters pending at year-end also increased by 28.2%. These increases have placed a continuing strain on the disciplinary system and its ability to keep up with investigations and hearings.

The record-high 1,703 grievances docketed in 2003 was an increase of 15.6% over the 1,472 added in 2002. Five years ago in 1999, the number of grievances added stood at 1,294. The upward pattern continued in 2000, with 1,320 new matters. It rose to 1,330 in 2001 and then to 1,472 at the end of 2002. The percentage of new grievances added this year was spread between the district committees (53%) and the Office of Attorney Ethics (OAE) (44%).

At the end of 2003, the number of cases pending in the system increased by 6.7%, to 1,402. Last year it stood at 1,314 cases (**Figure 3**). In 1999, the number of total pending cases reached their lowest level (1,093) in over a decade, since 1991 (1,134). Since then, that number has grown steadily from 1,215 in 2000, to 1,269 in 2001, to 1,314 in 2002, reaching its present level of 1,402 this year.

### Increasing Caseloads

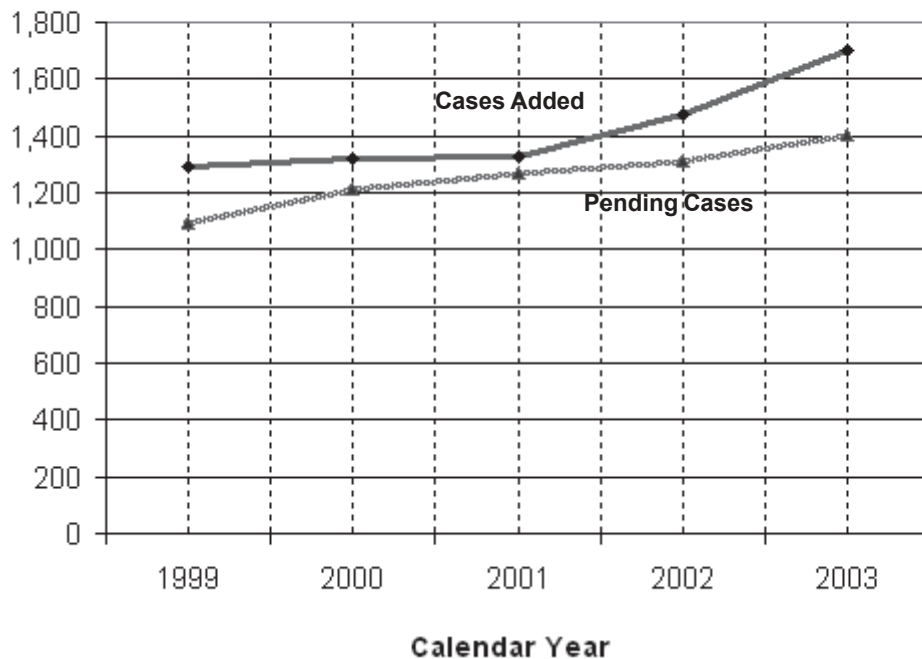


Figure 1

As a result of these trends, the disciplinary system has not been able to keep up with Supreme Court time goals. For investigations, the age of all pending cases statewide slipped from 184 days (6.1 months) last year to 212 days, or 7.0 months, at the end of 2003. The increase was particularly noticeable with complex cases handled by the OAE, which grew from 218 days old (7.2 months) last year to 283 days (9.4 months) on December 31, 2003. Over the past year backlogs also increased, both at the Office of Attorney Ethics (OAE), as well as at district ethics committee levels. The 15 volunteer district committees backlog grew from 16% (51 cases) to 23% (95 cases). OAE backlogs went from 29% (133 cases) to 39% (188 cases).

The OAE's backlog challenges mentioned above relate to the loss of several of our most experienced forensic auditors and investigators with over 20 years of expertise, together with a continued increase in the number of new complex cases filed over the last four years. The OAE's Complex Group handles serious, complex and emergent disciplinary matters statewide. These staffing problems experienced by the OAE were explained in last year's annual report. From 1999 through 2001, the OAE had a 16% average vacancy rate in its Complex Investigative Group, which, for 2003, has eleven authorized line positions. As noted last year, the impact of such losses on complex and long-term investigations is profound.

The OAE's backlog began increasing in 2000 when it had a build up of 63 old investigations. That number increased to 97 by the end of 2001. At the conclusion of 2002, the backlog reached 133 cases. It now stands at 188 at the end of 2003. In order to help to reverse this trend for 2003, the Supreme Court authorized the transfer of two OAE investigators who had been working in the OAE's District Group to the OAE's

Complex Group. These two recently reassigned investigators were previously dedicated exclusively to investigating cases in District VA (Essex – Newark). At the end of 2003, the Court announced that an additional three investigators from that Group would be transferred to the Complex Group for 2004. Additionally, the Court authorized the hiring of three additional disciplinary auditors to deal with the increasing number of complex financial matters handled by the OAE.

The Garden State attorney population has increased almost seven-fold in the last 34 years, growing from 11,408 in 1970 to the present total of 79,145, including those attorneys who were admitted in December 2003.

## Changes In Grievances

Year	Filings	Change	Overall
2003	1,703	15.6%	31.6%
2002	1,472	10.6%	
2001	1,330	0.8%	
2000	1,320	2.0%	
1999	1,294	--	

Figure 2

## Statewide Grievance Caseload

<b>Pending 1/1/03</b>		<b>1,314</b>
Filings	1,703	
Dispositions	1,615	
<b>Pending 12/31/0</b>		<b>1,402</b>
Investigations	993	
Hearings	185	
Untriable	224	

Figure 3



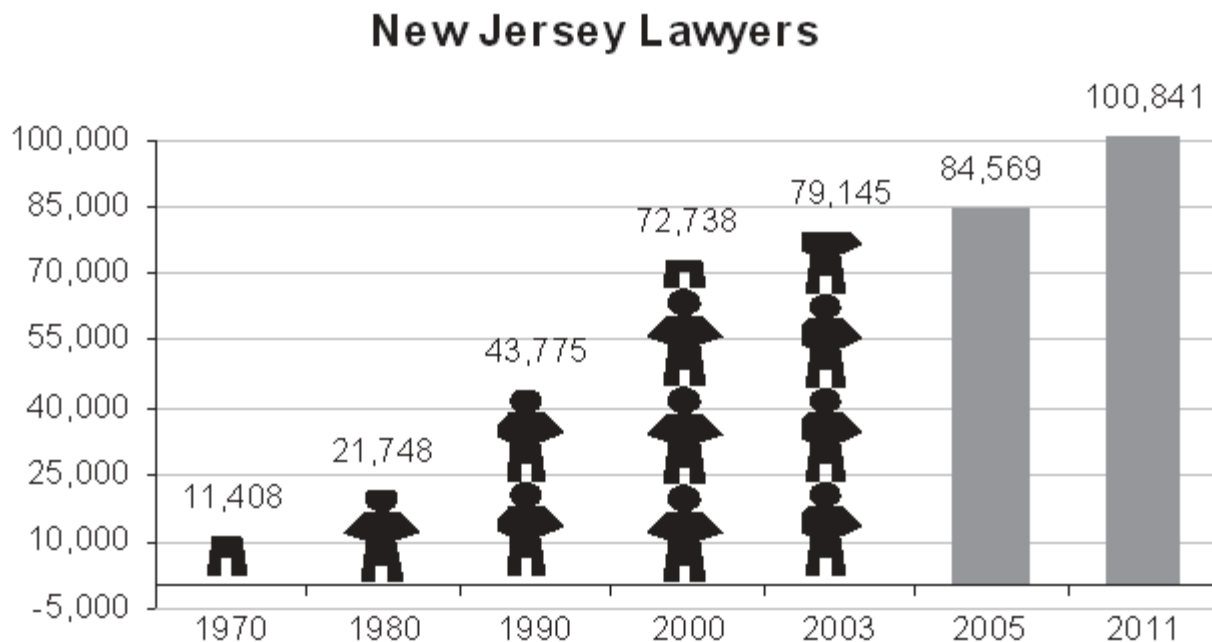
## Attorney Population

**Figure 4.** Moreover, the 2003 figure is more than twice the total of the 38,408 lawyers admitted to practice law in the state just 16 years ago in 1988.

This state continues to be among the fastest growing lawyer populations in the country. Its location in the populous northeast business triangle between New York, Philadelphia and Washington, D.C. is undoubtedly one factor attracting new lawyers to the bar. Practicing near three of the largest metropolitan centers in the country provides great business opportunities and geographic flexibility in serving clients.

Currently, there is one lawyer for every 109 people in the Garden State. At the end of 2003, New Jersey had 79,145 lawyers out of a total population of 8,638,396.

On average, over each of the last three years 2,712 new lawyers were admitted to practice here. At the current admissions rates, projections show that by the end of the year 2007, just four years away, a total of almost 90,000 lawyers will be members of the New Jersey Bar. Moreover, if current recent trends continue, we will reach 100,841 attorneys by the year 2011. **Figure 4.**



**Figure 4**

Nationally, New Jersey ranks sixth out of 51 jurisdictions in the number of lawyers admitted to practice. According to a July 1, 2003 survey compiled for the National Organization of Bar Counsel, Inc., the five most populous states for lawyers are New York (197,157), California (188,501), Pennsylvania (87,814), Illinois (80,662) and the District of Columbia (77,892). New Jersey had 77,500 admitted attorneys at that time.

The growth in our bar population is a factor in the number of disciplinary inquiries and grievances filed, as well as in the number of attorneys who are sanctioned annually for unethical conduct. Nevertheless, the number of attorneys against whom grievances are filed remains a small percentage of the total lawyer population in this state. **Figure 5**

Lawyer Grievance Analysis			
Year	Filings	Lawyers*	%
2003	1,703	57,583	2.9%
2002	1,472	56,446	2.6%
2001	1,330	56,278	2.3%
2000	1,320	55,687	2.3%
1999	1,294	54,581	2.4%
*Active Lawyers: Lawyers' Fund for Client Protection			

**Figure 5**



## Funding Attorney Discipline

The attorney discipline system is funded annually by payments from all lawyers admitted to practice. Funding in New Jersey is part of the annual registration process required by the Supreme Court. The annual discipline fee constitutes dedicated funds earmarked exclusively for the attorney discipline and fee arbitration systems. *R. 1:20-2(b)*. The Court also requires a distinct annual payment to be made to finance the Lawyers' Fund for Client Protection, *R. 1:28-2* (which reimburses clients whose monies have been taken dishonestly by New Jersey lawyers), as well as a separate fee for the benefit of the Lawyers' Assistance Program (which helps lawyers with alcohol and substance abuse, gambling and related issues).

### Annual Registration Fee

Year of Admission	5-49 Years	3-4 Years	2nd Year
Attorney Discipline	\$ 134	\$ 134	\$ 25
Lawyers' Fund	\$ 50	\$ 25	\$ 0
Lawyers' Assistance	\$ 6	\$ 6	\$ 3
<b>Total Fee</b>	<b>\$ 190</b>	<b>\$ 165</b>	<b>\$ 28</b>

**Figure 6**

For administrative efficiency, the annual attorney registration fee is collected by a single agency, the Lawyers' Fund for Client Protection. In calendar year 2003, the annual fees assessed for most lawyers (those admitted to practice between five to forty-nine years) totaled \$190. Of this amount, \$134 is earmarked for attorney discipline, \$50 for the Lawyers' Fund and \$6 for Lawyers' Assistance. This fee, and those for the remaining lawyer payment categories, is shown in **Figure 6**.

Nationally, New Jersey's lawyer registration fee is among the lowest in the country. A July 1, 2003 survey prepared by the OAE for the National Organization of Bar Counsel, Inc. showed that New Jersey ranked 6th (with 77,500 admitted attorneys) out of 51 United States jurisdictions in attorney size and ranked 40th (at \$190) out of 51 jurisdictions in the amount of mandatory fees required in order to practice. Last year, New Jersey ranked 42nd in the country in the amount of mandatory annual fees.



Nationwide, the average annual mandatory fee was \$325, which represents a \$21 increase from the \$304 average fee last year, and a \$31 increase from 2001's average of \$294. The range of mandatory fees across the country in 2003 starts at \$85 in Maryland and is as high as \$3,032 in Oregon, where the annual fee includes a mandatory malpractice charge that averages \$2,600.

New Jersey \$134 annual disciplinary fee for 2003 has increased by a total of only \$9 since 1995. The Supreme Court reorganized the attorney discipline system in 1995 and established the disciplinary portion of the annual fee at \$125 for most New Jersey lawyers (i.e., those admitted between 5 to 49 years). During the period from 1997 through 2002, New Jersey practitioners also enjoyed six straight years of rebates (as high as \$30 per year) when the Court temporarily reduced the discipline portion of the annual fee. As a result, lawyers received reductions totaling almost \$6 million. This extended string of rebates is unparalleled for annual attorney assessments in the country.

No taxpayers' monies are used to fund attorney professional responsibility in New Jersey. All funds come exclusively from the Court's annual attorney assessments in the country.

The annual budget approved by the Supreme Court for attorney disciplinary functions in calendar year 2003 is \$7,810,812. Fifty-nine percent of the budget is allocated to the OAE and 19% to the Disciplinary Review Board. The balance is apportioned to the Random Audit Compliance Program (7%), District Ethics Committees (6%), District Fee Arbitration Committees (4%), Annual Attorney Registration (4%) and the Disciplinary Oversight Committee (1%).



## Administration

New Jersey's attorney disciplinary system consists of three levels: Office of Attorney Ethics and District Ethics Committees; Statewide Disciplinary Review Board; and Supreme Court of New Jersey. **Figure 8.**

The first level consists of 17 regionalized district ethics committee (referred to as "committees"), supervised and managed by the Office of Attorney Ethics. District committees generally are established along single or multiple county lines.

District committees consist of attorney and public members who serve pro bono to investigate, prosecute and decide disciplinary matters. Each committee consists of three officers: a chair, who is the chief executive officer and the one responsible for all investigations; a vice chair, who is responsible for all cases in the hearing stage; and a secretary, as the administrator who receives and screens all inquiries and routes all docketed grievances. The attorney members are assigned to investigate and, if necessary, prosecute grievances docketed with the committees. Public members serve on three-member hearing panels that serve to hear the evidence where formal complaints have been filed after investigations. The panel then decides whether the attorney has committed unethical conduct.

The OAE is responsible for overseeing the operations of all district ethics committees. Through its District Investigative Group, the OAE also investigates all grievances in District IV (Camden & Gloucester Counties) and a small portion of the cases in District VA (Essex-Newark) and in District IIIA (Ocean County). Through its Complex Investigative Group, the OAE also exercises statewide jurisdiction over the investigation and prosecution of serious, complex and emergent matters.

The second level of the disciplinary system is the Disciplinary Review Board (Review Board). That body is the intermediate appellate tribunal in disciplinary matters. All recommendations for discipline from district hearing panels and certain other matters come to the Review Board for consideration. Subject to the Supreme Court's confirmatory order, the Review Board's decisions to impose discipline are final in all cases, except recommendations for disbarment. The Review Board

also hears appeals from dismissals following investigation or hearing and recommends reinstatement of suspended attorneys to the Supreme Court of New Jersey (Court).

The Supreme Court is the third and highest level of the disciplinary system. It decides all emergent applications by the OAE for temporary suspensions of attorneys. The Court hears and decides all recommendations for disbarment, as well as any other disciplinary recommendations where it has granted a petition for leave to appeal. Additionally, the Court reviews all decisions by the Review Board (other than admonitions) and enters confirmatory orders that actually impose all discipline.

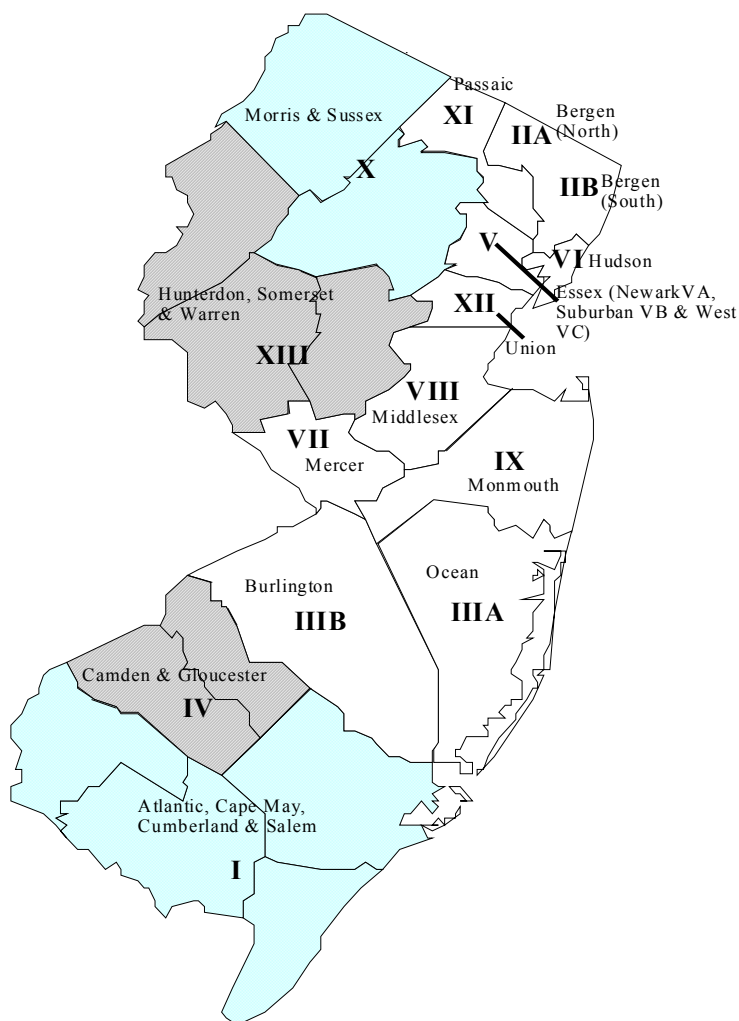


Figure 7

The OAE maintains a website for the benefit of the public and the bar. It is located at [www.courtsonline.com](http://www.courtsonline.com), the Judiciary's homepage. Once at the homepage, go to the directory on the left side under "Attorney Regulation" and then select "Office of Attorney Ethics." The OAE site is divided into nine separate pages, covering the following topics:

- State of the Attorney Discipline Report
- Attorney Discipline
- Fee Arbitration
- Random Audits
- Frequently Asked Questions
- Useful Links
- Approved Trust Banks
- Discipline Histories
- Ethics Help Desk

Grievance forms, as well as Fee Arbitration Request forms, can be downloaded and printed from the OAE site. The site also contains a list of district secretaries to whom the completed forms are sent.



# New Jersey Disciplinary System



Figure 8

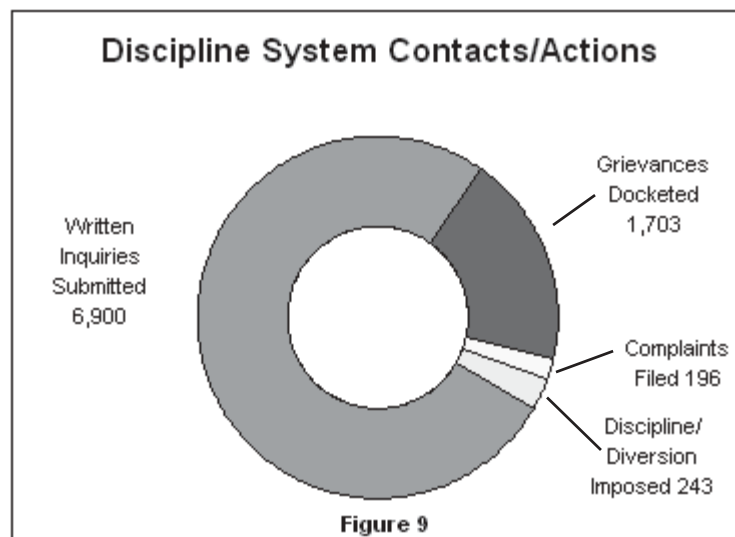


## Communications With Discipline System

The New Jersey disciplinary system receives thousands of communications each year, both by phone and in writing. District ethics secretaries and the OAE receive telephone communications through a toll-free information hotline (1-800-406-8594), as well as through their own directly dialed office numbers. During 2003, the disciplinary system received a total of more than 15,000 calls about attorneys. These calls included concerns of all kinds, such as attorneys' disciplinary histories, questions about legal procedures, questions related to the relocation of lawyers' practices, lawyers' failure to communicate with clients or to turn over files and a myriad of other issues. Of that number, approximately 11,500 were related to grievance issues.

The disciplinary system also receives written communications, which are divided into two primary classifications: inquiries and grievances. Inquiries are any written communications to the disciplinary system. These communications run the gamut from requests for information about an attorney's practice, questions regarding ethics and fee arbitration procedures, requests for grievance forms (a significant number of which are not returned), to completed grievances themselves. In 2003, district secretaries and the OAE received and handled approximately 6,900 written inquiries. **Figure 9.**

Grievances are written complaints about the ethical conduct of lawyers. Grievance forms are provided to inquirers to complete relevant information necessary to evaluate the claim. There were 1,703 grievances docketed by the disciplinary system in 2003. District ethics secretaries or the Office of Attorney Ethics review all written grievances that are filed with the disciplinary system to determine whether the facts alleged in the inquiry, if proven, would constitute unethical conduct. If so, the grievance is docketed and investigated. Unlike most states, New Jersey does not docket every communication to the disciplinary system and then quickly dismiss a major portion of these district ethics practicing attorneys, grievances filed with accordance with screening cases. If determines that the dispute, involves or criminal litigation, specific criteria rules, the secretary docket the case. If the inquiry would misconduct even if where the lawyer is have been rude or



used inappropriate language, or where the lawyer did not pay a personal bill), after consultation with a public member designated annually by the chair of the committee, the secretary will also decline to docket the case. In such event the secretary will notify the grievant of the reason that the case is declined and the specific court rule or other authority mandating declination. There is no right of appeal from these determinations.

If the secretary determines that the facts alleged in the inquiry, if proven, would constitute unethical conduct and if the inquiry is not otherwise declined for the reasons noted above, the inquiry is docketed as a

# Grievance/Investigation Flowchart

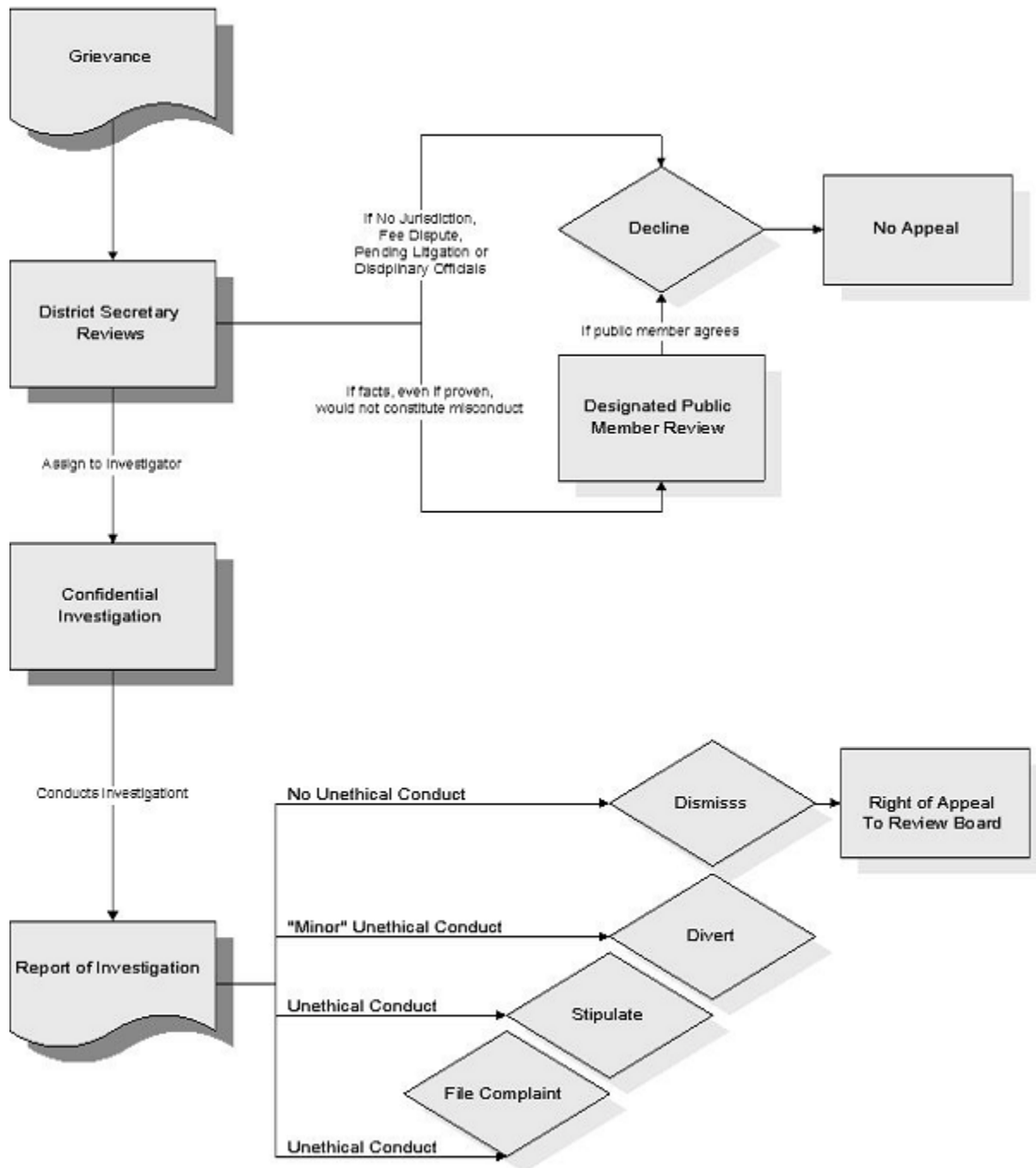


Figure 10

grievance. Of the approximately 6,900 inquiries received by the disciplinary system this year, about 5,197 were concluded without docketing. The balance of matters was docketed for investigation.

Of the cases investigated, a number are dismissed finding either no unethical conduct or insufficient proof of attorney misconduct. Some cases investigated result in a decision that the unethical conduct by the attorney is “minor misconduct” under court rules. In these cases, the attorney is placed in diversion, with his or her consent. The attorney must admit the misconduct and is usually required to perform some remedial action, such as refund the fee to the client or take a diversionary educational program conducted by the New Jersey State Bar Association.

In a portion of the cases investigated, the district chair or the Director determines that there is a reasonable prospect of proving unethical conduct by clear and convincing evidence. It is only those cases that, under our court rules, warrant filing of a complaint and conducting a disciplinary hearing. In 2003, 196 formal complaints were filed. This is an increase of 7.6% over the 182 formal complaints filed last year. Many of these complaints combine multiple docketed grievances. The overwhelming number of cases in which a complaint is filed result in findings of unethical conduct. Because disciplinary cases may span two calendar years from the filing of the complaint to the rendition of a decision by the Supreme Court or the Review Board, the number of cases in which discipline is imposed annually may be greater or less than the number of complaints filed in a given year. In 2003, 193 discipline sanctions and 51 diversions, or a total of 244 actions were taken against New Jersey lawyers.



## Confidential Investigations

Docketed grievances are assigned for investigation in order to determine whether unethical conduct may have occurred and, if so, whether there is sufficient evidence to prove the charges by clear and convincing evidence. Investigations include communicating with the respondent attorney, the grievant and any necessary witnesses. The process also involves securing such records and documents as may be necessary for a proper understanding of the matter. Under Supreme Court rules, all disciplinary investigations are confidential until and unless a complaint has been filed and served. Investigative confidentiality does not prevent the filing of other litigation against the lawyer or discussion of the matter with counsel. However, it does mean that the fact that a grievance has been filed may not be disclosed.

Supreme Court goals call for standard investigations to be completed within six months and complex investigations within nine months from the date a case is docketed until an investigative report is filed and the case dismissed, diverted or a complaint is filed. Most district cases are classified as standard matters. The actual time involved necessarily depends on a number of factors, including the cooperation of the grievant, the respondent and any other witnesses and the complexity of the matter itself. At the end of December 2003, the average age of all pending cases under investigation throughout the attorney disciplinary system was 212 days or 7.0 months, an increase from last year's totals of 184 days, or 6.1 months. Sixty-seven percent of all of these cases met the Supreme Court's time goals, down from 75% last year.

At the conclusion of the investigative process, a written report is submitted to the chair of a committee, who determines whether there is adequate proof of misconduct. If the chair finds that there is no reasonable prospect of proving misconduct, the chair directs the secretary to dismiss the matter and to provide the grievant with a copy of the report of investigation.

The grievant has a right to appeal any decision to dismiss the case to the statewide Review Board. If,

however, the chair determines that there is a reasonable prospect of proving unethical conduct by clear and convincing evidence, a complaint is prepared and served on the lawyer. The lawyer, referred to as the respondent, has 21 days to file an answer.

Additionally, where both the chair and the Director, OAE agree that the attorney is guilty of “minor” misconduct and the attorney admits to the misconduct, the case may be diverted. “Minor” misconduct is unethical conduct that will warrant no more than an admonition, the least serious disciplinary sanction available. Diversion results in non-disciplinary treatment, usually conditioned on certain remedial action by the respondent. The decision to divert a case is not appealable.



## Public Hearings

Once a formal complaint is issued and served on a respondent, the record in the case is public. The complaint, all pleadings subsequently filed and records subsequently made are available for review at the office of the district secretary or at the OAE, in connection with cases prosecuted by it. In unusual situations, however, a protective order may limit disclosure.

The hearing of the matter is also public. Complaints are generally tried before a hearing panel consisting of three members, composed of two lawyers and one public member. In complex cases, a special ethics master may be appointed by the Supreme Court to decide the matter.

The procedure in disciplinary hearings is similar to that in court trials. A court reporter makes a verbatim record of the entire proceeding. Testimony is taken under oath. Attendance of witnesses and the production of records may be compelled by subpoena. The hearing is open to the public.

After conclusion of the hearing, the panel deliberates in private and takes one of the following actions:

- ❑ Dismisses the complaint, if it finds that the lawyer has not committed misconduct; or
- ❑ Determines that the lawyer is guilty of misconduct for which discipline, i.e., admonition, reprimand, censure, suspension or disbarment, is required.

At the end of December 2003, a total of 184 hearings were pending, compared to 187 at that time last year. Statewide, the average pending age of these hearings was 264 days, or 8.9 months, almost the same figures as last year (266 days and 8.8 months). Fifty-six percent of these hearings were within Supreme Court goals. Last year, 53% of all hearings met time goal standards.



## Appellate Review

The Disciplinary Review Board (Review Board) is composed of nine members; presently five are lawyers, one is a retired Assignment Judge and three are public members. As is true at the district level, all Review Board members volunteer their time to the profession. The composition of the Review Board for 2003 is:

***Mary J. Maudsley, Esq. Chair***

April, Maudsley & Goloff, Esqs.  
Of Marmora, *Cape May County*

***William J. O'Shaughnessy, Esq. Vice Chair***

McCarter & English, L.L.P.  
Of Newark, *Essex County*

***Mathew P. Boylan, Esq.***

Lowenstein, Sandler, P.C.  
Of Roseland, *Essex County*

***Ms. Ruth Jean Lolla***

Of Toms River  
*Ocean County*

***Ms. Barbara F. Schwartz***

Of Vineland  
*Cumberland County*

***Robert C. Holmes, Esq.***

Of Newark  
*Essex County*

***Louis Pashman, Esq.***

Pashman Stein, P.C.  
Of Hackensack, *Bergen County*

***Hon. Reginald Stanton***

Of Florham Park  
*Morris County*

***Spencer V. Wissinger, III***

of Morristown  
*Morris County*



# Hearing/Appellate Flowchart

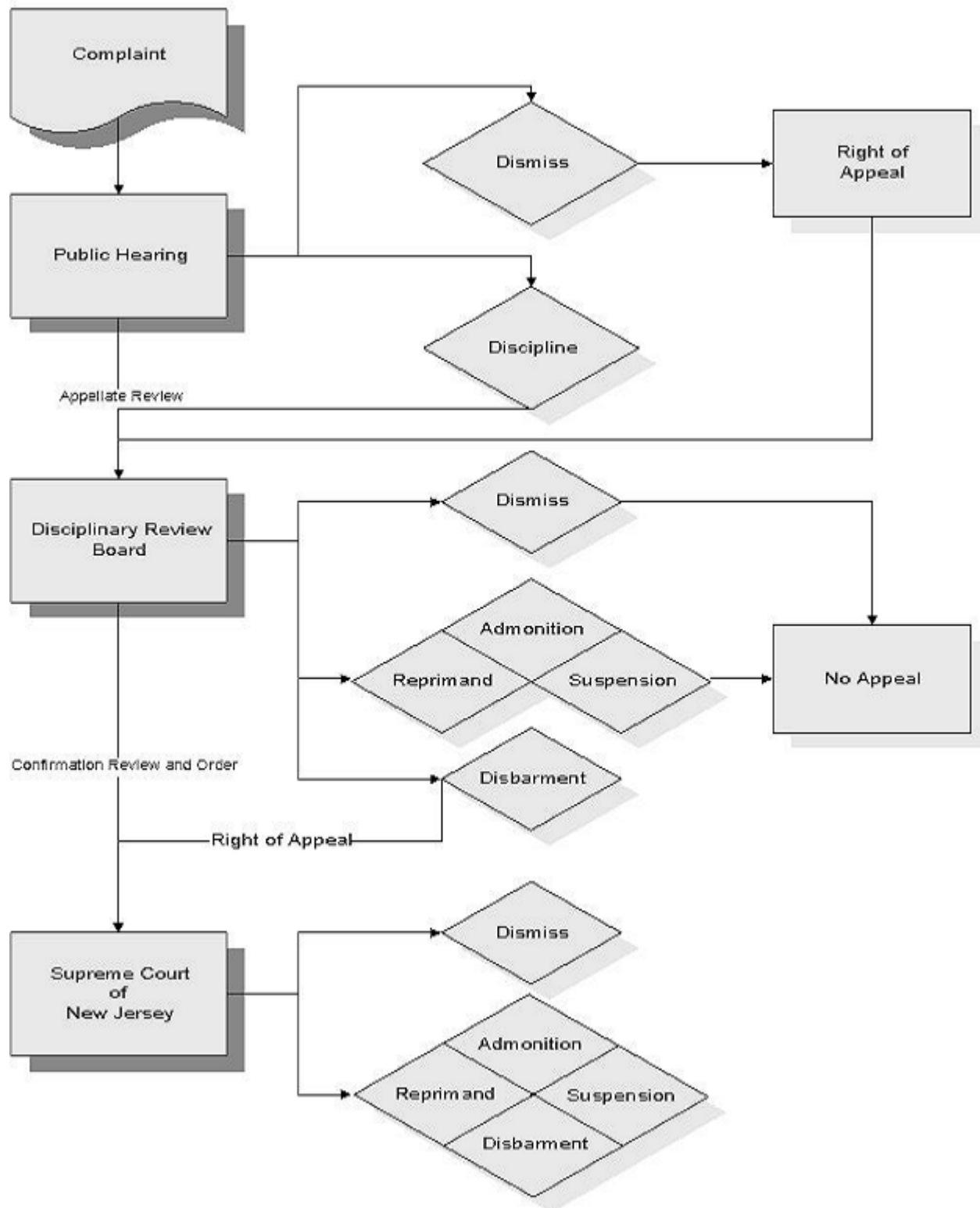


Figure 11

The Review Board meets monthly in Trenton at the Richard J. Hughes Justice Complex where oral arguments are held on recommendations for the imposition of discipline.

When a special ethics master or district hearing panel finds misconduct warranting discipline, the hearing report and recommendation is forwarded to and considered by the Review Board. If, after reviewing a matter in which an admonition (the least serious form of discipline) is recommended, the Review Board determines that sanction is adequate discipline, it issues a written letter of admonition. Where a special ethics master or district hearing panel files a report recommending reprimand, censure, suspension or disbarment, oral argument is routinely scheduled before the Review Board. The respondent may appear in person and may be represented by counsel. The presenter of the district committee or OAE Ethics Counsel appears to present the matter to the Review Board.

At monthly meetings the Review Board also decides ethics appeals, fee appeals and requests for reinstatement by suspended attorneys. In the event that a district committee or the OAE dismisses a docketed grievance after investigation or hearing, the grievant, the respondent or the OAE has the right to appeal to the Review Board. The Review Board also hears appeals from the statewide district fee arbitration committees, who arbitrate fee disputes between clients and attorneys. There is no charge for filing any appeal. Suspended attorneys are not automatically admitted to practice at the conclusion of their term of suspension. Rather, they must file a detailed petition on notice to the OAE. That petition is reviewed by the Review Board, which makes a recommendation to the Supreme Court.

For the OAE, 2003 was a very busy year as OAE ethics counsel conducted a total of 68 oral arguments (**Figure 12**) in disciplinary matters at the Review Board level. No witnesses are permitted at oral argument and no testimony is taken. However, the argument is open to the public. If the Review Board determines that a reprimand, censure, suspension, transfer to disability inactive status or disbarment should be imposed, its written decision is reviewed by the Supreme Court of New Jersey. The Court then issues the final order imposing discipline.



“Attorneys awaiting oral argument before the Review Board”

**Figure 12**





## Supreme Court of New Jersey

Under the State Constitution, the Supreme Court has exclusive authority over the regulation of the practice of law in New Jersey. *N.J. Const. Art. VI, Section II, P3*. The Supreme Court sets the terms for admission to the practice of law in the state and regulates the professional conduct of attorneys.

The Supreme Court of New Jersey is the highest court in the state. It is composed of a Chief Justice and six Associate Justices. Figure 13. Supreme Court Justices are appointed by the Governor and confirmed by the State Senate for initial terms of seven years. On reappointment, they are granted tenure until they reach the mandatory judicial retirement age of 70.

The Supreme Court hears oral arguments in disciplinary matters at the Richard J. Hughes Justice Complex in Trenton. Only the Supreme Court can order disbarment. In all other matters, the decision of the Review Board becomes final on the entry of a confirmatory order by the Court, unless it grants leave to appeal. The OAE represents the public interest in all cases before the Court. During 2003, OAE attorneys appeared 34 times for oral argument.



Top row, from left to right: **Justice Barry T. Albin** of Somerville; **Justice Jaynee LaVecchia** of Morristown; **Justice James R. Zazzali** of Red Bank; **Justice John E. Wallace, Jr.** of Sewell.  
Front row, from left to right: **Justice Virginia Long** of Trenton; **Chief Justice Deborah T. Poritz** of Trenton; **Justice Peter G. Verniero** of Flemington.

Figure 13



## Disciplinary Oversight Committee

The Supreme Court has established a Disciplinary Oversight Committee (Oversight Committee) of eleven members, six attorneys and five public members, to review the attorney disciplinary system. While the committee has no operational responsibilities, it is charged to assess the system and to report to the Court on any necessary changes or improvements to insure that the system functions efficiently and in the public interest.

This committee also reviews the annual budget submitted to the Supreme Court by the Director, Office of Attorney Ethics and the Chief Counsel, Disciplinary Review Board. Following are the members of the Oversight Committee, all of whom serve pro bono:

Lanny S. Kurzweil, Esq., Chair  
McCarter and English, Esqs.  
Of Newark

Richard L. Bland, Jr., Esq.  
Essex County Prosecutor's Office  
Of Newark

John J. Degnan, Esq.  
President, Chubb & Son, Inc.  
Of Warren

Michael K. Furey, Esq.  
Partner in Riker, Danzig, Esqs.  
Of Morristown

Harriett A. Kass  
Public-Private Partnerships  
Of Princeton

Kathryn Flicker, Esq., Vice Chair  
State Commission on Investigation  
Of Hopewell

Mr. Robert Boyle  
William H. Hintelmann Real Estate  
Of Rumson

Paris P. Eliades, Esq.  
Daggett, Kraemer, Eliades &  
Vanderweile  
Of Sparta

Mr. Anthony J. Guacci  
Shering Sales Corporation  
Of Kenilworth

Mr. Lee Neuwirth  
Of Princeton

Raymond Ocasio  
La Casa De Don Pedro, Inc.  
Of Newark



## Office of Attorney Ethics

The Supreme Court of New Jersey established the Office of Attorney Ethics on October 19, 1983 as the investigative and prosecutorial arm of the Court in discharging its constitutional authority to supervise and discipline New Jersey attorneys. *N.J. Const. Art VI, Section II, P3.*

The OAE (**Figure 14**) has programmatic responsibility for 17 district ethics committees, which investigate and prosecute grievances alleging unethical conduct against attorneys. It also administers 17 district fee arbitration committees (**Chapter 3**), which hear and determine disputes over legal fees between attorneys and clients.

Likewise, the OAE conducts the Random Audit Program (**Chapter 4**), which undertakes audits of private law firm trust and business accounts to see that mandatory record keeping practices are followed. The office also oversees the collection and analysis of the Annual Attorney Registration Statement (Chapter 5), which secures demographic and private practice information about all New Jersey lawyers, including trust and business account data.



**“Location of Office of Attorney Ethics”**

**Figure 14**

Importantly, the OAE also is vested with exclusive investigative and prosecutorial jurisdiction in certain types of matters, such as emergent, complex or serious disciplinary cases, matters where an attorney has been criminally charged, cases where an attorney is the subject of reciprocal discipline in another United States Jurisdiction, matters involving allegations against a sitting Superior or Appellate Division judge concerning conduct while the judge was an attorney, cases where district ethics committees have not resolved an investigation within a year, as well as any case where the Review Board or the Supreme Court refers a matter to that office. *R.1:20-2(b)(1)*. Moreover, the OAE investigates all cases in Districts IV (Camden and Gloucester Counties) and a portion of grievances filed in District VA (Essex-Newark).

The Supreme Court appoints the OAE Director. The Court, on recommendation of the Director, appoints other ethics counsel. The Director hires all other staff, subject to the approval of the Chief Justice. The OAE consists of a Director, First Assistant, Assistant Ethics Counsel, Counsel to the Director and eight Deputy Ethics Counsel.

Following is a biography of the OAE legal staff, which averages over 20 years of legal experience:

*Director, Office of Attorney Ethics*  
**David E. Johnson, Jr. of West Windsor**  
Admitted to Practice 1971  
A.B. Rutgers University 1968  
J.D. University of Memphis Law School 1971  
M.P.A. Rider University 1984  
Appointed Director in 1983

**Law Practice:** Associate of Wesley L. Lance, Esq., of Clinton (1971-76); Attorney for Central Ethics Unit of the Administrative Office of the Courts (1976-80); Chief, Division of Ethics and Professional Services (1980-83).

**Related Experience:** Associate Editor, University of Memphis Law Review (1969-1971); Author of Trust and Business Accounting for Attorneys (5th Edition 2003); President, National Organization of Bar Counsel, Inc. (1990-91); Member, Supreme Court's New Jersey Ethics Commission (1991-93); member New Jersey State Insurance Fraud Steering committee (1996-98); member United States Department of Justice Immigration Fraud Working Group (1997-1998).

*First Assistant Ethics Counsel*

**John J. Janasie of Ocean Gate**

B.S. Saint Peters College 1970

J.D. Rutgers School of Law Newark 1973

Joined OAE in 1986

**Law Practice:** Associate at the law firm of Holzapfel and Perkins of Cranford (1973-76), Assistant Prosecutor for Union County (1976-84), Senior Associate at the law firm of Sauer, Boyle, Dwyer and Canellis of Westfield (1984-86).

**Related Experience:** Chief of Economic Crimes Unit at Union County Prosecutor's Office (1982-84).

*Assistant Ethics Counsel*

**Michael J. Sweeney of Florence**

Admitted to Practice 1977

B.A. St. Joseph's University 1974

J.D. Temple University Law School 1977

Joined OAE 1993

**Law Practice:** Associate of Dietz, Allen and Sweeney (1977-82); Partner at Sweeney and Sweeney (1982-90); Owner, Law offices of Michael J. Sweeney (1990-93); all of Mt. Holly.

**Related Experience:** Chair and Member of Supreme Court's District III (Burlington and Ocean Counties) Fee Arbitration Committee (1987-91).

*Counsel to Director*

**Richard J. Engelhardt of Lawrenceville**

Admitted to Practice 1973

A.B. Cum Laude Rutgers University 1968

J.D. Cornell University Law School 1973

Joined OAE 1977

**Law Practice:** Deputy Attorney General, Division of Criminal Justice, Appellate Section (1973-75).

**Related Experience:** Assistant Counsel to Supreme Court's Disciplinary Review Board and the Supreme Court's Advisory Committee on Judicial Conduct (1977-83); Secretary to Supreme Court's Unauthorized Practice of Law Committee (1980-83).

*Deputy Ethics Counsel*

**Janet Brownlee Miller of Mt. Holly**

Admitted to Practice 1981

B.A. Monmouth College 1962

M.A. Indiana University 1967

J.D. With Honors Rutgers School of Law - Camden 1981

Joined OAE 1995

**Law Practice:** Associate at James Logan, Jr., Esq. (1982-94); Owner, Law Offices of Janet Brownlee Miller (1994-95), all of Mt. Holly.

**Related Experience:** Associate Editor, Rutgers Law Journal (1979-81); Law Secretary to Honorable Paul R. Kramer and Victor Friedman, Superior Court, Burlington County (1981-82); Member of Supreme Court's District IIIB (Burlington County) Ethics Committee (1990-94).

*Deputy Ethics Counsel*

**Walton W. Kingsbery, III of Shrewsbury**

Admitted to Practice 1980

B.A. Washington and Lee University 1976

J.D. Washington and Lee University School of Law 1980

Joined OAE 1992

**Law Practice:** Associate of Richard A. Amdur of Oakhurst (1981-84); Associate and then Partner at Reussille, Mausner, Carotenuto, Bruno and Barger of Red Bank (1984-92).

**Related Experience:** Law Secretary to Honorable Patrick J. McGann, Jr., Superior Court, Monmouth County (1980-81); Municipal Prosecutor, Borough of Shrewsbury (1987-92); Secretary and Member of Supreme Court's District IX (Monmouth County) Ethics Committee (1988-92).

*Deputy Ethics Counsel*

**John McGill, III of Edgewater Park**

Admitted to Practice 1985

B.A. Cleveland State University 1976

J.D. Salmon P. Chase College of Law Northern Kentucky University 1984

Joined OAE 1990

**Law Practice:** Assistant Prosecutor for the County of Essex 1986-90).

**Related Experience:** Law Secretary to Honorable Philip M. Freedman, Superior Court of Essex County (1985-86).

*Deputy Ethics Counsel*

**Nitza I. Blasini of Atlantic County**

Admitted to Practice 1983

B.A. University of Puerto Rico 1972

J.D. Rutgers School of Law - Camden 1982

Joined OAE 1993

**Law Practice:** Assistant Prosecutor for Camden County (1984-87); Assistant Prosecutor for Atlantic County (1987-88); Assistant Prosecutor for Cumberland County (1988-90); Public Defender for Cape May County (1990-93).

*Deputy Ethics Counsel*

**Lee A. Gronikowski of Allentown**

Admitted to Practice 1984

B.A. Magna Cum Laude

Rider University 1981

J.D. Syracuse University Law School 1984

Joined OAE 1993



**Law Practice:** Associate of Lindabury, McCormick and Estabrook of Westfield (1984-87); Assistant Prosecutor for Middlesex County (1987-89); Deputy Attorney General, Division of Criminal Justice, Securities Fraud Section (1989-93).

**Related Experience:** Major in the US Air Force Reserve assigned as Assistant Staff Judge Advocate with Headquarters, 21st Air Force, McGuire Air Force Base.

*Deputy Ethics Counsel*

**Brian D. Gillet**

Admitted to Practice 1983

B.A. Northwestern University 1979

J.D. Seton Hall University Law School 1982

Joined OAE 1995

**Law Practice:** Special Assistant United States Attorney (1988-92); Assistant Prosecutor for Union County (1983-93); Senior Associate at Giordano, Halleran and Ciesla of Middletown (1993-95).

**Related Experience:** Principal Law Secretary to Honorable V. William DiBuono, Assignment Judge of Union County (1982-83); Certified Criminal Trial Attorney (Inactive).

*Deputy Ethics Counsel*

**Janice R. Richter of Cream Ridge**

Admitted to Practice 1981

B.S. Trenton State College 1978

J.D. Rutgers School of Law - Camden 1980

Joined OAE 2001

**Law Practice:** Associate at Brown & Connery Law Firm of Westmont (1980-1987); Owner, Law Offices of Janice L. Richter, P.C. of Cherry Hill (1988-97); Of Counsel, Braverman, Kaskey & Caprara of Cherry Hill (1997-2001).

**Related Experience:** Chair and Member of Supreme Court's District IV (Camden & Gloucester Counties) Ethics Committee (1987-91); Special Ethics Master (1994-96); Certified Civil Trial Attorney.

*Deputy Ethics Counsel*

**Marina Peck of South Brunswick**

Admitted to Practice 1995

B.A. Johns Hopkins University 1991

J.D. Seton Hall University Law School 1995

Joined OAE 2003

**Law Practice:** Associate at Lowenstein, Sandler of Roseland (1996-97); Assistant Prosecutor for Somerset County (1997-2003).

**Related Experience:** Law Secretary to Honorable Wilfred P. Diana, Assignment Judge of Somerset, Warren and Hunterdon Counties (1995-96).

An Administrative staff of six supports the OAE's disciplinary work. The OAE's Support Staff for discipline consists of 13 secretaries and assistants.

OAE Administrative Staff	Disciplinary Support Staff	
Susan F. Robert <i>Law Office Administrator</i>	Ruth Bailey	T. Paul Dawson
Mark S. Wagner <i>Manager, Information Systems</i>	Danette Brown	Gail S. Gross
Bonnie M. Kauffman <i>Local Area Network Administrator</i>	Therese M. Bruck	Serita Lee
	Patricia C. Bramley	Lavette D. Mims
	Anderia L. Calhoun	Rosalind J. Roberts
	Barbara A. Cristofaro	Emma Tomlinson
	Sharon D. Vandegrift	
Rhonda L. Hardinger, <i>Administrative Assistant</i>		
Patricia D. Strieffler, <i>Administrative Assistant</i>		

Gerald J. Smith, Chief of Investigations, heads the OAE's investigative units. He is assisted by Assistant Chief Investigator Jeanine E. Verdel and Assistant Chief Investigator William M. Ruskowski.

*Chief of Investigations*

**Gerald J. Smith of Elkins Park**

B.S. LaSalle University 1961

Joined OAE 1988

**Experience:** Criminal Investigation Division, United States Treasury Department, Internal Revenue Service (1961-81); Branch Chief, Philadelphia District Office (1981-87).

**Related Experience:** Assistant to the Assistant Regional Commissioner of the Criminal Investigation Division.

*Assistant Chief Investigator*

**Jeanine E. Verdel of Hamilton Square**

B.A. Glassboro State College 1981

Joined OAE 1990

**Experience:** Paralegal at Duane, Morris and Heckscher (1981-82); Loan Office, P.B. Mortgage Co. (1982-84); Supervisor, N.J. Housing and Mortgage Finance Agency (1984-86); Supervising Investigator, New Jersey Real Estate Commission (1986-90).

*Assistant Chief Investigator*

**William M. Ruskowski of Medford**

A.A. Temple University 1987

B.A. Temple University 1991

Joined OAE 1993

**Experience:** Philadelphia Police officer (1981-87); Promoted to Police Sgt.(1987); Detective Sgt. Philadelphia District Attorneys Office supervising the Economic Crime Unit, the Government Fraud Unit and the Narcotics Forfeiture Units (1988-93).

OAE investigators are divided into two groups. The Complex Investigative Group consists of eleven forensic auditors and disciplinary investigators. This unit primarily conducts investigations of complex matters. These cases most often involve misappropriation of trust funds, fraudulent conduct and related white-collar misconduct. The unit also handles other serious and emergent matters where temporary suspensions of attorneys are sought to protect the public and the bar. Supervision is divided between the Chief of Investigations and the two Assistant Chief's. This group investigates OAE cases on a statewide basis.

### **Complex Investigative Group**

Gerald J. Smith  
*Chief of Investigations*  
 Jeanine E. Verdel and  
 William B. Ruskowski  
*Assistant Chief Investigators*

### **Disciplinary Auditors & Investigators**

Alan Beck	Robert J. Gudger
Mary Jo Boling	G. Nicholas Hall
Barbara M. Galati	Greg Kulinich
Denise A. Gamble	Gary K. Lambiase
Cynthia L. Gehring	Carol A. Palmer
	Christopher Spedding

### **District Investigative Group**

Walton W. Kingsbery, III  
*Deputy Ethics Counsel*  
 Jeanine E. Verdel  
*Assistant Chief Investigator*

### **Disciplinary Investigators**

Julie K. Bakle	Theresea Marchitto
Margaret M. Cox	Susan R. Perry-Slay
	Wanda L. Riddle

The Office of Attorney's District Investigative Group consists of five investigators. Deputy Ethics Counsel-in-Charge, Walton W. Kingsbery, III and Assistant Chief Investigator Jeanine E. Verdel provide supervision. This group investigates standard and some complex cases in Camden County and Gloucester County (District IV) and a portion of the grievances in a portion of Essex County covering the city of Newark (District VA).



## **District Ethics Committees**

The attorney disciplinary system consists of full-time members of the OAE and volunteer attorneys and public members serving 17 regionalized district ethics committees.

Volunteer attorney members serve as investigators in all districts except for Camden-Gloucester (IV) where OAE full-time investigators handle all investigations. Public members join their volunteer attorney counterparts on hearing panels in cases where a formal complaint has been filed. Volunteer attorneys also prosecute cases before hearing panels in all district committees.

The OAE supports the efforts of all volunteer district ethics committees. Deputy Ethics Counsel Janet Brownlee Miller, who serves as Statewide Ethics Coordinator, spearheads this effort. She is aided by Caroline E. Allen, Administrative Assistant, and, on a part-time basis, by Sharon D. Vandegrift, Support Staff.

As of September 1, 2003 there were 487 volunteers (397 attorneys and 90 public members of district committees serving pro bono across the state. Following is a list of members who served on the Supreme Court's district ethics committees during the 2003-2004 term.



**DISTRICT I**  
(Atlantic, Cape May, Cumberland and Salem Counties)  
**Secretary:** Frank L. Corrado of Wildwood

Alan J. Cohen of Atlantic City, Chair	2004
Sherri Affrunti of Lawrenceville, Vice Chair	2005
Linda S. Best of Wildwood Crest	2004
Jose A LaBoy of Vineland	2004
Linda T. Pirulli of Bridgeton	2004
Carl N. Tripician of Northfield	2004
Stanley L. Bergman, Jr. of Atlantic City	2005
Hance C. Jaquett of Ocean City	2005
Mary Todd Merenich of Linwood	2005
James H. Pickering Jr. of South Seaville	2005
William S. Donio of Hammonton	2006
Gary R. Griffith of Ocean City	2006
Michael I. Gross of Atlantic City	2006
Mark Pfeffer of Atlantic City	2006
Trinna Rodgers of Atlantic City	2006
Donald R. Charles, Jr. of Ocean City	2007
Tracey Furno Oandasas of Woodstown	2007
Nancy L. Ridgway of Linwood	2007
Anthony A. Swan of Atlantic City	2007
John W. Tumelty of Palermo	2007
Jennifer R. Webb of Millville	2007
William G. Cottman of Wildwood	2004
Robert Helsabeck of Absecon	2005
Joseph M. Dolan of Atlantic City	2006
Rev. Paul C. Wise of Atlantic City	2006
Donald A. Wadsworth of Northfield	2007
James V. Wray of Pleasantville	2007

**DISTRICT IIA**  
(North Bergen County)  
**Secretary:** Morton R. Covitz of Hackensack

Richard C. McDonnell of Ramsey, Chair	2004
Helen L. Glass of Hackensack, Vice Chair	2005
Brian D. Iton of Englewood	2004
Celine Y. November of Hackensack	2004
Marvin H. Sunshine of River Edge	2004
Ellen K. Bromsen of Englewood	2005
Michael P. Kemezis of Paramus	2005
Jeffrey A. Lester of Hackensack	2005
Deborah L. Ustas of Hackensack	2005
Joseph M. Ariyan of Hackensack	2006
E. Gregory M. Cannarozzi of Oradell	2006
Patrick J. Kelly of Maywood	2006
Anna Navatta of Hackensack	2006
Lorraine Teleky-Petrella of Hackensack	2006
Jeffrey L. Clutterbuck of Ridgewood	2007
Donald M. Onorato of Hackensack	2007
Deborah Veach of Hackensack	2007
John P. Wallace of Ridgewood	2007
Robert Mark Kutik of Hackensack	2005
William J. Meisner of Mahway	2005
Marge Wyngaarden of Westwood	2005
Tiberio Fabricante of Closter	2006
Michele Phibbs of Upper Saddle River	2006
Bettina Kretz of Upper Saddle River	2007
Nancy Cronk Peet of Midland Park	2007

**DISTRICT IIB**  
(South Bergen County)  
**Secretary:** Morton R. Covitz of Hackensack

Glenn R. Reiser of Hackensack, Chair	2004
Thomas J. Herten of Hackensack, Vice Chair	2005
Carol A. Personette of Hackensack	2004
Alfred C. Pescatore, Jr. of Hackensack	2004
Richard G. Potter of Hackensack	2004
Jay D. Rubenstein of Hackensack	2004
Howard Stern of Wayne	2004
Sharon Clancy of Hackensack	2005
Matthew J. Jeon of Palisade Park	2005
Paul D. Kreisinger of Ho-Ho-Kus	2005
Edward P. D'Alessio of Hackensack	2006
Jerrold S. Fond of Hackensack	2006
Geri L. Squire of Closter	2006
Rustine Tilton of Elmwood Park	2006
Daniel M. Eliades of Rochelle Park	2007
Jason Errol Foy of Hackensack	2007
Janet B. Lurie of Hackensack	2007
James X. Sattely of Hackensack	2007
Ilana Volkov of Hackensack	2007
Ellen Marie Walsh of Fair Lawn	2007
Cynthia M. Johnson of Englewood	2004
Michael Bertty of Teaneck	2006
Alma Scott-Buczak of Cliffside Park	2006
Carolyn Smallwood of Rutherford	2007

**DISTRICT IIIA**  
(Ocean County)  
**Secretary:** Steven Secare of Toms River

Joseph M. Valenzano, Jr. of Woodcliff Lake	2007
Peter R. Strohm of Lakewood, Chair	2004
Kevin Neal Starkey of Brick, Vice Chair	2005
Harold Eugene Creacy of Toms River	2004
Barbara A. Baggett of Brick	2005
Mary Ann Pelly Bogan of Point Pleasant	2005
Bette A. Hughes of Point Pleasant	2005
Robert Leo Tarver, Jr. of Toms River	2005
Carmine R. Villani of Point Pleasant Beach	2005
A. Leslie Burton-Clark of Bricktown	2006
Joan Crowley of Toms River	2006
Jonathan S. Fabricante of Lakewood	2006
Suzanne M. Jorgensen of Brick	2006
Gregory Patrick McGuckin of Forked River	2006
Daniel D. Olszak, Jr. of Lakewood	2006
Kathleen Peterson of Toms River	2006
Kenneth F. Fitzsimmons of Point Pleasant	2007
Sean D. Gertner of Lakewood	2007
Debra M. Himber of Forked River	2007
Jeff J. Horn of Toms River	2007
Peter J. Van Dyke of Toms River	2007
Brian Swedberg (Rev.) of Toms River	2004
Richard Gross of Brick	2005
Kathleen Hoffmann of Brick	2005
Robert B. O'Brien, Jr. of Bay Head	2007

**DISTRICT IIIB**  
(Burlington County)  
**Secretary:** Cynthia S. Earl of Moorestown

Betsy G. Liebman of Mt. Laurel, Chair	2004
Jeffrey S. Apell of Browns Mills, Vice Chair	2005
Thomas J. Orr of Burlington	2004
Patricia Ronayne of Moorestown	2004
Nancy T. Abbott of Burlington	2005
Patricia P. Davis of Cinnaminson	2005
George J. Singley of Mt. Laurel	2005
Paul Allen Snyder of Marlton	2005
Elizabeth Coleman Chierici of Moorestown	2006
Janice L. Heinold of Marlton	2006
J. Llewellyn Mathews of Cherry Hill	2006
Pamela Adriano Moy of Moorestown	2006
Martin Pappaterra of Mt. Holly	2006
Michael S. Rothmel of Mt. Holly	2006
Warren S. Wolf of Delran	2006
Thomas B. Bate, Jr. of Bordentown	2007
Michael A. Bonamassa of Marlton	2007
Michelle Lee Corea of Mt. Laurel	2007
Michael A. Taylor of Mt. Laurel	2007
Katrina F. Wright of Willingboro	2007
Joan K. Geary of Florence	2004
Ronald Monokian of Lumberton	2006
Robert Zmirich of Mt. Laurel	2006

**DISTRICT IV**  
(Camden and Gloucester Counties)  
**Secretary:** John M. Palm of Cherry Hill

Patricia B. Santelle of Westmont, Chair	2004
John Morelli of Vorohees, Vice Chair	2005
James Herman of Cherry Hill	2004
Mati Jarve of Cherry Hill	2004
Ralph R. Kramer of Haddon Heights	2004
Michael P. Madden of Haddonfield	2004
Jane L. McDonald of Cherry Hill	2004
Katherine Wade Battle of Camden	2005
Anne S. Cantwell of Cherry Hill	2005
Shereen C. Chen of Pennsauken	2005
Gerald Faber of Cherry Hill	2005
Theresa C. Grabowski of Haddon Heights	2005
Howard C. Long, Jr. of Laurel Springs	2005
Robert A. Porter of Cherry Hill	2005
James R. Thompson of Cherry Hill	2005
Julia R. Battista of Cherry Hill	2006
Steven M. Janove of Cherry Hill	2006
John P. Jehl of Haddonfield	2006
John J. Murphy, III, of Cherry Hill	2006
Lee M. Perlman of Cherry Hill	2006
Laura D. Ruccolo of Cherry Hill	2006
Eric S. Spevak of Haddonfield	2006
Robert H. Williams of Haddonfield	2006
Margaret McClellan Gatti of Haddonfield	2007
David A. Haworth of Cherry Hill	2007
Christine P. O'Hearn of Westmont	2007
Kimberly Deal Phillips of Pennsauken	2007

	Term Expires
Anne T. Picker of Camden	2007
William S. Skinner of Cherry Hill	2007
Mary C. Trace of Deptford	2007
Helen Amster of Cherry Hill	2004
Edward M. Taylor of Somerdale	2004
Alan Klein of Cherry Hill	2005
Joyce Alexander May of Haddon Heights	2005
Peggy Leone of Merchantville	2006
Carl Mogil, D.O. of Cherry Hill	2006
William R. Carter, Ed.D. of Williamstown	2007

#### **DISTRICT VA**

(Essex County Newark)

**Secretary:** James A. Scarpone of Newark

Tonya M. Smith of Newark, Chair	2004
Corliss R. Franklin of Newark, Vice Chair	2005
Charles Stewart Cohen of Newark	2004
Howard Mark Erichson of Newark	2004
David Howard Stein of Newark	2004
Seth T. Taube of Newark	2004
Denelle J. Waynick of Newark	2004
Scott Weber of Newark	2004
Elizabeth R. Charters of Newark	2005
Anne Marie Kelly of Newark	2005
Edward J. O'Donnell of Livingston	2005
Douglas H. Amster of Newark	2006
Stefanie A. Brand of Newark	2006
Eric R. Breslin of Newark	2006
Richard F. Connors, Jr. of Newark	2006
Nancy Lem of Newark	2006
Sofia Samuel Lipman of Newark	2006
Elizabeth A. Kenny of Newark	2006
Jeffrey Bernstein of Newark	2007
Christopher J. Dalton of Newark	2007
Elizabeth Wizeman Dollin of Newark	2007
Christopher M. Farella of Newark	2007
Clement Jude Farley of Newark	2007
Lisa D. Love of Newark	2007
Jeffrey M. Wactlar of Wayne	2007
Jean W. Watley of Orange	2007
Sheila Caruso of Newark	2004
Scott R. Krieger of Livingston	2005
Hope Allen of Newark	2007
Harold L. Bernstein of Newark	2007
Christina Y. Bookhart of Hamilton	2007
Danielle A. Smith of Newark	2007

#### **DISTRICT VB**

(Essex County Suburban Essex)

**Secretary:** Seth Ptasiewicz of Newark

Robert E. Brenner of Somerville, Chair	2004
Cynthia M. Craig of West Orange, Vice Chair	2005
George L. Caceres of Newark	2004
Brenda Eady Stafford of Florham Park	2004
Herbert I. Waldman of Maplewood	2004
Steven A. Weiner of West Orange	2004
Steven H. Daniels of Springfield	2005
Joel D. Fierstein of Denville	2005
Raymond Louis Hamlin of Newark	2005
David B. Katz of Livingston	2005
James A. Mella of Short Hills	2005
Bradley M. Wilson of Hackensack	2005
Edna Ball Axelrod of South Orange	2006
Jean R. Campbell of Montclair	2006
Kenneth J. Isaacson of Wayne	2006
Lisa Kaplan of Livingston	2006
Sonya M. Longo of Short Hills	2006
Anthony Mazza of West Orange	2006
John J. Peirano, Jr. of Newark	2006
Michael R. Ricciardulli of Millburn	2006
Brad S. Schenerman of Newark	2006
Thomas P. Scrivo of Morristown	2006
Lisa T. Wahler of New Brunswick	2006
Lisa A. Lehrer of West Orange	2007
Francis X. Dee of Newark	2007
Phillip J. Duffy of Newark	2007
Mac D. Garfinkle of Maplewood	2007
Frederick Evan Gerson of Florham Park	2007
Marcy Ann Gilroy of Short Hills	2007
John J. Johnson of Newark	2007
Elizabeth Kronisch of Roseland	2007
Marsha Papanek Long of Short Hills	2007
David M. Meisels of Newark	2007
Ricki Anne Sokol of West Orange	2007
Janet Armuth Wolkoff of South Orange	2007
Rhoda B. Denholtz of Short Hills	2004
Jean Milano of West Orange	2004
Ronnie Schuman Brown of Short Hills	2005

	Term Expires
Chuck Lanyard of Fair Lawn	2005
James Clark, DDS of Short Hills	2007

#### **DISTRICT VC**

(Essex County West Essex)

**Secretary:** Philip McGovern, Jr. of Newark

Kenneth J. Fost of Morristown, Chair	2004
Karen Meislik of Montclair, Vice Chair	2006
Linda Ballan of Bloomfield	2004
Morris Bauer of Roseland	2004
Bernard Schenkler of Roseland	2004
Jeffrey Campisi of Roseland	2005
Brian H. Fenlon of Roseland	2005
Thomas D. Foti of Roseland	2005
Beatrice E. Kandell of Livingston	2005
Judith D. Musser of Upper Montclair	2005
Thomas A. Sparno of Roseland	2005
Kathleen McCormick Campi of Upper Montclair	2006
Barbara A. Dennis of Bloomfield	2006
Stephen P. Haller of Livingston	2006
Gary J. Lustbader of West Orange	2006
Richard L. Scharlat of Newark	2006
Jill Tobia Sorger of Montclair	2006
Lindsey H. Taylor of Roseland	2006
G. Glennon Troublefield of Roseland	2006
Angelo Cifelli of Nutley	2007
Nicholas J. Fano of South Orange	2007
Nancy S. Feinberg of South Orange	2007
Harrison J. Gordon of West Orange	2007
Robert M. Briggs of Roseland	2004
David H. Jameson of Livingston	2004
Paul Erlich of Glen Ridge	2005
Arthur J. Thompson of Montclair	2005
Robert Cohen of Springfield	2006
Kristine H. O'Connor of Essex Falls	2006

#### **DISTRICT VI**

(Hudson County)

**Secretary:** Jack Jay Wind of Jersey City

Nesle A. Rodriguez of Jersey City, Chair	2004
Perry Florio of Secaucus, Vice Chair	2005
Amy R. Winsten of Jersey City	2004
Ramon de la Cruz of Guttenberg	2004
James F. Dronzek of Jersey City	2004
Norman S. Karpf of Palisades Park	2004
Mary Ann Olsen of Bayonne	2004
Eugene T. Paolino of Jersey City	2004
Richard N. Campisano of Jersey City	2005
John J. Elefthrow of Jersey City	2005
Cataldo F. Fazio of Paramus	2005
James Patrick Flynn of Newark	2005
Marc J. Keane of Jersey City	2005
Rolando Orbe of West New York	2005
Stanley R. Pietruska of Bayonne	2005
Lawrence Sindoni of Jersey City	2005
Gregory J. Castano, Jr. of West Caldwell	2006
Howard S. Feintuch of Jersey City	2006
Jeffrey R. Jablonski of Kearny	2006
Julien X. Neals of Secaucus	2006
Wendy J. Parmet of Jersey City	2006
Mary K. Costello of Morris Plains	2007
Michael J. Dillon of Jersey City	2007
Paula J. Mercado of Parsippany	2007
Marybeth Rogers of Fairview	2007
Nadya M. Zerquera of Guttenberg	2007
Reverend Tyrone Chess of Jersey City	2005
Ana J. Garcia of West New York	2005
Zohreh Behin of Jersey City	2006
Rene R. Escobar of Chatham	2006
Paul A. Foddai of Jersey City	2006
John R. Raslowsky, II of Hoboken	2007

#### **DISTRICT VII**

(Mercer County)

**Secretary:** Alan G. Frank, Jr. of Lawrenceville

Roberto A. Rivera-Soto of Philadelphia, Chair	2004
David Jon Byrne of Lawrenceville, Vice Chair	2005
Audrey L. Anderson of Pennington	2004
Gregory J. Giordano of Lawrenceville	2004
Craig J. Hubert of Mercerville	2004
Arun Deshbandu Lavine of Lawrenceville	2004
Stuart A. Tucker of Lawrenceville	2004
Gina Gloria Bellucci of Trenton	2005
Peter R. Freed of Princeton	2005
Brian J. Mulligan of Trenton	2005
David Schroth of Trenton	2005
Karen A. Confoy of Trenton	2006

Samuel M. Gaylord of Lawrenceville	2006
Susan J. Knispel of Trenton	2006
Anna M. Lascrain of Trenton	2006
Anthony M. Massi of Trenton	2006
Edith Saviola Brower of Trenton	2007
Bruce W. Clark of Princeton	2007
Keith P. Jones of Princeton	2007
Scott A. Krasny of West Trenton	2007
Rachel Jeanne Lehr of Trenton	2007
Mitchell A. Livingston of Trenton	2007
Ray Montgomery of Trenton	2005
Sharon H. Press of Princeton	2006
B. Lynn Robinson of Columbus	2006
Frans M. Djourup of Princeton	2007

#### **DISTRICT VIII**

(Middlesex County)

**Secretary:** Manny Gerstein of Edison

Timothy J. Little of Woodbridge, Chair	2004
Barry A. Weisberg of Woodbridge	2005
Mark J. Bressler of Edison	2004
Hillary L. Brower of East Brunswick	2004
C. Judson Hamlin of Bedminster	2004
Candice G. Hendricks of Trenton	2004
Steven M. Tannenbaum of Metuchen	2004
Raymond P. DeMarco of Dunellen	2005
Richard A. Deutchman of New Brunswick	2005
Marcia L. Hendler of North Brunswick	2005
Heidi A. Lepp of Metuchen	2005
Michele Labrada of New Brunswick	2006
Barbara T. Lang of Piscataway	2006
Michael J. Rossignol of Piscataway	2006
Peter Tus-Man Tu of Plainsboro	2006
Howard Duff of Woodbridge	2007
Hon. Barnett E. Hoffman, JSC of North Brunswick	2007
Allan Marain of New Brunswick	2007
Ellen F. Schwartz of Edison	2007
Charles J. Soos of Kendall Park	2007
Florence M. Gardner of New Brunswick	2004
Jeanne A. Kushinsky of Edison	2005
Jerry Kaplan of Edison	2006
Dawn McPhee of New Brunswick	2006
Mable J. Casagrand of Metuchen	2007
Arthur A. Gross of Woodbridge	2007

#### **DISTRICT IX**

(Monmouth County)

**Secretary:** Kathleen A. Sheedy of Red Bank

Dennis Russell O'Brien of Asbury Park, Chair	2004
Susan M. Scarola of Freehold, Vice Chair	2005
Paul X. Escandon of Allenhurst	2004
Frank S. Gaudio of Red Bank	2004
Vernon McGowen, Jr. of Neptune	2004
Paul F. Schaaf, Jr. of West Long Branch	2004
Ambar I. Abelar of Long Branch	2005
R. Diane Aifer of Middletown	2005
Allison Ansell of Ocean	2005
Judson Bernard Barrett of Oakhurst	2005
David A. Laghlin of Neptune	2005
Linda L. Piff of Wall	2005
Scott J. Basen of Freehold	2006
Honora O'Brien Kilgallen of Wall Township	2006
James A. Paone, II of Freehold	2006
Julie Dasara Drescher of Belford	2007
Jane Marie Langseth of Little Silver	2007
David P. Levine of West Long Branch	2007
Daniel L. Weiss of Paterson	2007
Jose Miguel Burgos of Long Branch	2004
James Cooper of Eatontown	2006
Susan M. Schneider of Freehold	2006
Melissa A. Keale of Fair Haven	2007

#### **DISTRICT X**

(Morris and Sussex Counties)

**Secretary:** Bonnie C. Frost of Denville

Brian J. Fruehling of Madison, Chair	2004
Peter Petrou of Parsippany, Vice Chair	2005
Vivian Demas of Chatham	2004
Glenn T. Gavan of Newton	2004
George J. Grochala of Morristown	2004
Robert M. Leonard of Florham Park	2004
Alan Strelzik of Newton	2004
Jefferson T. Barnes of Chatham	2005
Mark Andrew Blount of Chester	2005
Laura Ann Kelly of Morristown	2005
Margaret Anne Kerr of Morris Plains	2005
Michael M. Luther of Parsippany	2005

Joseph V. MacMahon of Riverdale	2005
Lauren Koffler O'Neill of Roseland	2005
Janet L. Pisansky of Morristown	2005
Peter K. Barber of Florham Park	2006
John M. DeMarco of Morristown	2006
Kurt W. Krauss of Parsippany	2006
Christopher J. McAuliffe of Mountain Lakes	2006
James M. Creed of Morristown	2006
Arlene E. Pasko of Kinnelton	2006
James M. Porfido of Morristown	2006
James D. Ray of Morristown	2006
Bonnie Wolfanger of Morristown	2004
William D. Primus of Morristown	2005
J. Peter Borbas of Boonton	2006
Sherry E. Jorge of Hillsborough	2006
Mary E. Van Kirk of Morristown	2006
Moly K. Hung of Madison	2007
Henry Ellis Klingeman of Madison	2007
Fredric M. Knapp of Morristown	2007
Kevin Thomas Kutyla of Hopatcong	2007
Connie A. Matteo of Morristown	2007
Laurie L. Newmark of Morristown	2007
Michael J. Riordan of Florham Park	2007
George D. Schonwald of Parsippany	2007
Clifford J. Weininger of Denville	2007
Richard J. Williams, Jr. of Morristown	2007
Susan King, MBA, CPA of Madison	2007
Richard W. King, PE, PP of Madison	2007
Carole O'Brien of New Vernon	2007

#### **DISTRICT XI**

(Passaic County)

**Secretary:** Robert L. Stober of Clifton

Patrick J. DeMarco of North Haledon, Chair	2004
Kathleen A. Sheridan of Hawthorne, Vice Chair	2005
Susan E. Champion of Wayne	2004
Kenneth F. D'Amato of Clifton	2004
Diane M. Dewey of Hawthorne	2004
Martin F. Murphy of Riverdale	2004
JoAnn G. Durr of Wayne	2005
Patrick J. Caserta of Wayne	2006
Ellen Jo Gold of Paterson	2006
Maria J. LaSala of Wayne	2006
Imre Karaszegi, Jr. of Clifton	2006
Lawrence M. Maron of New Brunswick	2006
Ana M. Arrechea of Paterson	2007
Ralph M. Fava, Jr. of Hawthorne	2007
Thomas M. Kaczka of Mountain Lakes	2007
Robert Saul Molnar of Wayne	2007
Ken Morris, Jr. of Paterson	2004
Jackie Bonney of Wayne	2006
Cristobal Collado of Paterson	2007
Patricia M. Henry of Hackensack	2007

#### **DISTRICT XII**

(Union County)

**Secretary:** William B. Ziff of Westfield

Grace D. Mack of West Orange, Chair	2004
Mark P. Dugan of Elizabeth, Vice Chair	2005
Marvin T. Braker of Union	2004
Rosa Maria Conti of Springfield	2004
Stephen F. Hehl of Union	2004
Richard P. Krueger of Linden	2004
Jamie K. Von Ellen of Cranford	2004
Leigh Walters of Springfield	2004
Kelly A. Waters of Newark	2004
Robert J. Logan of New Providence	2005
Theresa E. Mullen of Clark	2005
Judith De Rosa of Fairfield	2006
R. Scott Eichhorn of Springfield	2006
Bill R. Fenstemaker of Elizabeth	2006
Catherine J. Flynn of New Providence	2006
Marjorie B. Leffler-Wachtel of Westfield	2006
Jonathan W. Romankow of Westfield	2006
Kenneth B. Rotter of Newark	2006
Linda S. Ershow-Levenberg of Clark	2007
Michael J. Keating of Cranford	2007
Patricia A. Mack of Elizabeth	2007
Gry D. Nissenbaum of Union	2007
Mark B. Watson of Springfield	2007
Andrew J. Pelliccio of Cranford	2004
Jean Reisen of Summit	2005
Eugene Kertis, MD of Westfield	2007
Andrea Mattingly of Berkeley Heights	2007

Term Expires

**DISTRICT XIII**  
**(Hunterdon, Somerset and Warren Counties)**  
**Secretary: Donna P. Legband of Skillman**

John R. Lanza of Flemington, Chair	2004
Rosalyn A. Metzger of Somerville, Vice Chair	2005
Linda Del Tufo of Basking Ridge	2004
Roseanne De Torres of Lebanon	2004
Lauretta A. Rush-Masuret of Bernardsville	2004
Kenneth J. Skowronek of Flemington	2004
Christopher M. Troxell of Phillipsburg	2004
Christopher T. Walsh of Somerset	2004
Robert J. Foley of Raritan	2005
Karen A. Gugliotta of Phillipsburg	2005
Mary Rose Mott of Baptistown	2005
Donald E. Souders, Jr. of Phillipsburg	2005
Thomas J. Welchman of Somerville	2005
Patrick T. Collins of Somerville	2006
William J. Courtney of Flemington	2006
J. Rebecca Goff of Whitehouse	2006
Lance J. Kalik of Morristown	2006
Nancy L. McDonald of Morristown	2006
Carol L. Perez of Whitehouse	2006
David W. Trombadore of Somerville	2006
Jeffrey M. Gonzalez of Flemington	2007
Kevin P. Kovacs of Bedminster	2007
Sheryl M. Schwartz of Warren	2007
Thomas J. Rafferty of Somerville	2004
Michele Chen of Watchung	2005
Paul McCormick of Flemington	2006
David J. Desiderio of Annandale	2007



# **ATTORNEY DISCIPLINARY ACTIONS**

## **Chapter Two**





**“(T)he principal reason for discipline is to preserve the confidence public in the integrity and trustworthiness of lawyers in general.”**

**Chief Justice Robert N. Wilentz**  
*In re Wilson*, 81 N.J. 451 456 (1979)



## Disciplinary Sanction Trends

A total of 193 disciplinary sanctions were imposed on New Jersey lawyers in 2003, a decrease of 28%, compared to last year when a total of 269 lawyers were sanctioned. While the total number of sanctions imposed in 2003 is the lowest in five years (**Figure 15**), it must be remembered that two of those five years contained record totals. Discipline totals for 2002 and 1999 represented the largest and second largest number of attorneys sanctioned in history. The decrease in 2003 is much less dramatic compared to the totals of 198 for 2000 and 204 for 2001. For that three-year period (2000, 2001 and 2003), an average of 198 lawyers were disciplined.

During 2003, the Court imposed final discipline on 162 lawyers. Another 31 were the subject of temporary, emergent disciplinary sanctions. In 2002, there were 269 sanctions, 228 final and 41 emergent. A total of 204 practitioners received disciplinary sanctions in 2001 (180 final and 24 emergent). In 2000, 198 lawyers were disciplined – 162 final and 36 emergent. For 1999, the total was 239, consisting of 185 final sanctions and an all-time high 54 emergent sanctions.

In New Jersey, disciplinary sanctions are divided into two main categories. The largest category is final discipline, which is imposed on lawyers by the Supreme Court after the respondent-lawyer has the opportunity for a hearing at the trial level and, thereafter, appellate review by the Disciplinary Review Board (Review Board). Final disciplinary sanctions are explained in further detail later in this chapter under the heading “Final Discipline Cases.” The second category is emergent actions. These sanctions are imposed on an urgent basis in order to protect the public while discipline charges are pending. Emergent actions consist of temporary suspensions, temporary license restrictions on the lawyer’s practice or transfers to temporary disability-inactive status, where the lawyer, for health reasons, does not have the present capacity to practice law. The Office of Attorney Ethics (OAE) initiates all emergent actions. Emergent actions are explained in further detail later in this chapter under the heading “Emergent Discipline Cases.”

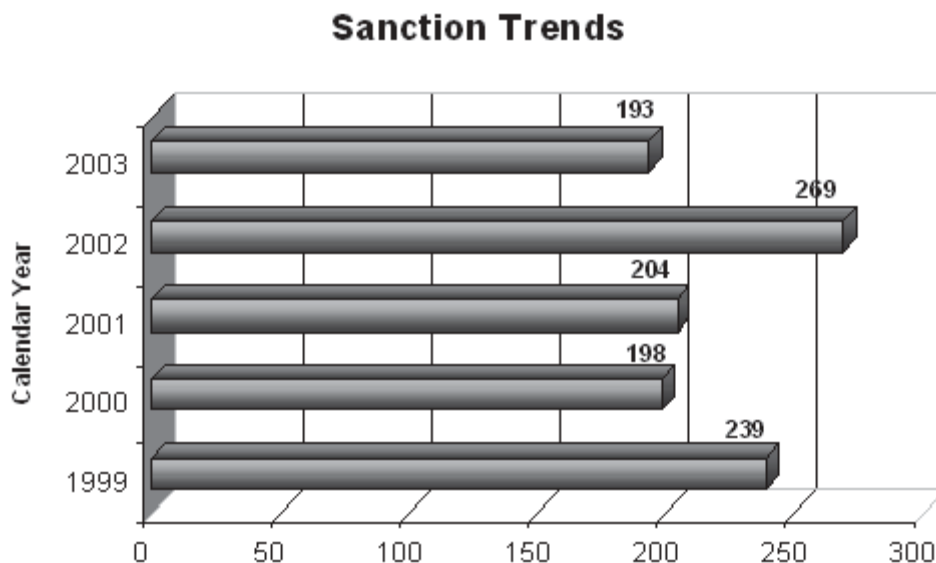


Figure 15



Several factors contribute to the number of disciplinary sanctions imposed in a given year. Consequently, no definitive conclusions can be drawn from reviewing the data for a single year. A primary factor is timing — the fact that time goals that apply to disciplinary cases (**Figure 16**) span more than one year from docketing of a grievance to imposition of discipline by the Supreme Court. There are four main stages that the majority of disciplinary cases must follow before discipline can be imposed. These include: the investigation stage, the hearing process, intermediate appellate review by the Review Board and final Supreme Court evaluation and action. Furthermore, there are different investigative time goals, depending on whether the case is classified as standard (6 months) or complex (9 months). The time it takes the Supreme Court to act also is a factor, with disbarment and other complex cases where oral argument is held often taking the full 6-month time goal allowed, while other less complex cases, where there is no oral argument, usually take only about two months. To traverse the disciplinary process from investigation to imposition of discipline, a case normally can be expected to take between 20 to 27 months. Therefore, the result of any investigation is not likely to result in discipline in the same year that it was docketed. Consequently, the number of attorneys disciplined from year to year often varies.

### Disciplinary Time Goals

Stage	Standard Goal	Complex Goal
Investigation	6 Months	9 Months
Hearing	6 Months	6 Months
Review Board	6 Months	6 Months
Supreme Court	2 Months	2-6 Months
<b>Total Time</b>	<b>20 Months</b>	<b>23-27 Months</b>

Figure 16

The number of grievances filed each year is also a factor in the amount of discipline imposed. Filings have increased by 10.6% in 2002 and 15.6% in 2003. Another important dynamic in determining the number and timing of disciplinary sanctions is that each disciplinary case is fact sensitive. The difficulty of the matter and the cooperation of the attorney during the investigation, are always major considerations. The system does have a number of procedures to expedite some types of matters (disbarment by consent, the attorney's consent to a specific form of discipline, accelerated procedures for waiving a hearing if an attorney defaults by failing to answer a formal complaint, criminal convictions and reciprocal discipline from other states, where proceedings are initiated at the Review Board level). However, the majority of disciplinary cases are contested at all stages, since the result may deprive the lawyer of the right to practice, either for a period of time, if the attorney is suspended, or permanently, if the attorney is disbarred. Finally, we must acknowledge that disciplinary sanctions are imposed for aberrant conduct. The vast majority of the lawyers admitted in New Jersey are ethical practitioners. It is difficult to predict the numbers of atypical conduct involving a small number of unethical attorneys.



**Richard J. Hughes Justice Complex  
Home of the Supreme Court of New Jersey**

**Figure 17**



## **Final Discipline Cases**

All final discipline is imposed by or under the auspices of the Supreme Court of New Jersey. The Supreme Court sits in Trenton, New Jersey at the Richard J. Hughes Justice Complex (**Figure 17**). The Court imposes final discipline after the attorney is first afforded an opportunity for a disciplinary hearing at the trial level and after the Review Board concludes appellate review.

The Supreme Court imposed discipline with finality on 162 Garden State attorneys in 2003. There are seven primary forms that final disciplinary sanctions may take. In order of least serious to most severe, they are: admonition, reprimand, censure, final disability-inactive status, suspension (for definite or indeterminate term), revocation and disbarment. The 162 final sanctions imposed in 2003, include 11 disbarments by order of the Court, 12 disbarments by consent of the respondent, no revocations, 61 term suspension, no indeterminate suspensions, no final transfers to disability inactive status, two censures, 43 reprimands and 33 admonitions (which the Review Board is also authorized to impose).

Disbarment may either be imposed by order of the Supreme Court or may be consented to by the attorney. Disbarment in New Jersey is virtually permanent, since reinstatement was granted in only three cases this century. *In re Wilson*, 81 N.J. 451, 456 n.5 (1979) and *R. 1:20-15A(a)(1)*. Revocation of license is an annulment of the right to practice law. License revocation is imposed in limited circumstances, such as cases in which a lawyer is admitted to practice based on false or incomplete information contained in the application for admission to the bar.

A suspension precludes an attorney from practicing law in the state for the period it is in force. There are two types of suspensions. Term suspensions generally prevent an attorney from practicing for a specific term that is no less than three months and no more than three years. *R. 1:20-15A(a)(2)*. Indeterminate suspensions are imposed for a minimum of five years, unless the Court's order provides otherwise. *R. 1:20-15A(a)(3)*. During the period of suspension or following disbarment, another licensed attorney may not employ the disciplined attorney in any capacity, nor may the disciplined attorney share offices with a licensed attorney, even in a non-legal capacity. *R. 1:20-20(a)*.

Final disability-inactive status is imposed where an attorney does not have the mental or physical capacity to practice law. *R. 1:20-12*. In order to be reinstated, these practitioners bear the burden of proving, by clear and convincing evidence, that they are again able to practice law without endangering that attorney or the public.

Censure is a condemnation imposed by order or opinion of the Supreme Court. *R. 1:20-15A(a)(4)*. It is a harsher sanction than a reprimand and reflects the more egregious character of the underlying unethical conduct. A reprimand is a reproof imposed by order or opinion of the Supreme Court. *R. 1:20-15A(a)(5)*. Admonition is the least serious form of attorney discipline. *R. 1:20-15A(a)(6)*. It is a written rebuke and is imposed either by letter of the Review Board or by order of the Supreme Court.

Where an attorney-respondent fails to file an answer to a complaint after being properly served, the attorney has defaulted. In these cases our rules provide for expedited disciplinary treatment leading to quicker sanctions. The record of the proceeding is “certified” directly to the Review Board for sanction recommendation. The Review Board then evaluates the matter and sends its recommendation directly to the Supreme Court for imposition of discipline. The default process continues to show concrete results by reducing the time within which final discipline is imposed. During 2003, 15% of all disciplinary sanctions imposed (excluding 12 disbarments by consent, which, of course, always require a respondent’s active cooperation), or 23 of 149 cases, were based on the attorney’s default. Eighteen percent of all disbarments by order of the Supreme Court (2 of 11) were accomplished via the certification process this year. A total of 23% of all suspensions imposed (14 of 61) resulted from a certification of the record. Sixteen percent (7 of 43) of the reprimands were certified. No censures or admonitions resulted from default. By comparison, during 2002, a total of 17% of all disciplinary sanctions resulted from the certification process.

Several of the most interesting cases of sanctioned misconduct during 2003 were imposed on attorneys from Essex County (2), Naples, Florida, and Burlington County.

The Supreme Court disbarred **Arthur N. Martin, Jr.** of Newark, Essex County on June 27, 2003 after an extended history of disciplinary action. When disbarred by the Court, Martin was the subject of four separate recommendations for discipline: a one-year suspension, a three-year suspension, and two separate recommendations for disbarment, all filed by the Review Board. The Board’s decisions covered 19 separate findings of unethical conduct, including multiple violations of gross neglect, lack of diligence, failure to keep a client reasonably informed and failure to respond to reasonable requests for information, charging an unreasonable fee, failing to communicate the basis or rate of fee to a client, failing to cooperate with disciplinary authorities and conduct involving dishonesty, fraud, deceit or misrepresentation.

Prior to 2003, however, the respondent had an extensive disciplinary record. In 1990, he was suspended for six months for grossly neglecting seven cases, negotiating settlements without the clients’ authorization, advancing money to clients for personal expenses and displaying a gun during meetings with clients. *In re Martin*, 118 N.J. 239. He was suspended for three months in 1991 for failure to return an unearned portion of a retainer after the case was dismissed, failure to pursue an appeal, failure to adequately communicate with clients in three matters, and failure to reply to requests for information by a district ethics committee investigator. That suspension was to run consecutively to the suspension imposed in 1990. *In re Martin*, 122 N.J. 198. He was publicly reprimanded in 1993 for unethical conduct in three matters, which involved violations of gross neglect, lack of diligence, lack of communication, and conduct involving misrepresentation. *In re Martin*, 132 N.J. 261. In 1998, he consented to be temporarily suspended from the practice of law, pending the final determination of many additional grievances that were pending against him. As a result, the Review Board issued the four separate recommendations for discipline noted above, which were heard together before the Supreme Court in 2003. While the Board’s four decisions were pending with the Court, the respondent filed a motion with the Supreme Court to supplement the record. In 1999, the Court directed that the four

recommendations, including the motion to supplement the record, be remanded to a special ethics master. After extensive hearings, the special master recommended to the Supreme Court that respondent be disbarred and, in 2003, the Court agreed.

In its final unreported decision recommending disbarment and filed with the Court in 2000, the Review Board summed up respondent's transgressions in the four separate sets of charges it considered since 1997 as follows:

“Respondent has shown, in thirty-five separate cases, that he is unable—or unwilling—to competently represent clients. Furthermore, respondent has shown that he has little regard for the attorney disciplinary system. He has either completely ignored ethics complaints and allowed defaults to be entered against him, or he has attempted to file answers to the complaints after the defaults have already been transmitted to us—despite prior timely notice of the complaints.”

On September 30, 2003, the Supreme Court of New Jersey suspended **Karel L. Zaruba** of Naples, Florida, the former corporate counsel for Warner-Lambert Pharmaceuticals, for a period of one year. Essentially, Zaruba bribed two attorneys not to pursue future claims against the drug company in exchange for the payment of \$225,000. This offer and the subsequent payment thereof placed defense counsel in a conflict of interest situation with their clients, because the agreement contained a confidentiality clause, that prohibited the attorneys from disclosing the full terms of the settlement to their own clients. Those terms included an agreement by the two attorneys not to sue or otherwise assert any claims on behalf of any parties against Warner-Lambert relating to the product in question and that the \$225,000 payment was for reasonable fees and expenses for the litigation, with the clients receiving only a full, money-back guarantee for the defective product. The attorneys falsely told their clients that they were abandoning claims against Warner-Lambert because they had not obtained a sufficient number of consumers willing to join the class action. The Supreme Court determined that the settlement here by Zaruba violated *RPC* 5.6(b) by making an agreement in which a restriction on a lawyer's right to practice is part of the settlement, and *RPC* 8.4(a) by inducing or assisting others to violate the *RPC*'s. In an unreported opinion, the Review Board advised the bar that:

“We caution the bar that efforts to buy off plaintiffs' counsel by secret agreements of the kind present here will be viewed as extremely serious, warranting substantial suspensions.”

The Court suspended **Elliott D. Moorman** of East Orange, Essex County a total of four separate occasions during 2003. On January 25, 2003 he was suspended for a period of three months, effective February 28, 2003, for engaging in conduct prejudicial to the administration of justice. Moorman filed a grievance against a judge hearing one of his cases with the Advisory Committee on Judicial Conduct and then abandoned the grievance and failed to cooperate with the committee during the investigation. The Review Board also found that the opening of the grievance against the judge was a threat designed to obtain a desired result in violation of *RPC* 8.4(d). In a second matter, the respondent engaged in a conflict of interest by representing the seller of the property and then subsequently representing the purchaser in attempts to resolve title problems arising out of the same real estate closing. Respondent also violated an escrow agreement by disbursing \$500 to the seller without obtaining the purchaser's authorization and consent. Likewise, he failed to obtain the purchaser's authorization to the removal of his legal fee and failed to have a written fee agreement with his client.

On June 20, 2003, Moorman received another three-month suspension, effective on May 28, 2003. The basis for this decision was the attorney's forgery of a client's endorsement on a settlement check and, in another matter, his acts to deceive an attorney to whom he had agreed to pay a partial fee for work performed before the case was referred to the respondent. The proofs showed that respondent had no intention to pay and that he deposited the settlement check and disbursed the entire fee to himself, stalling the other attorney's inquiries for several years. Additionally, in order to improperly increase his legal fee, Moorman improperly calculated his fee on the gross, rather than the net, settlement amount, in violation of court rules.

The Supreme Court of New Jersey again suspended Moorman a third time on November 21, 2003 (effective August 23, 2003), for grossly neglecting an immigration matter, including failing to appear at two deportation hearings. As a result, the client was ordered deported. Finally, on that same day the Supreme Court again suspended the attorney for a year, that suspension to run concurrently with the prior one-year suspension imposed on the same date. This sanction resulted from Moorman accepting a retainer from a client to represent her in litigation and his failure to represent the client diligently, failure to communicate with the client, failure to utilize a retainer agreement, and his failure to cooperate with disciplinary authorities during the investigation and processing of this matter.

Additionally, Moorman had an extensive prior disciplinary history. In 1990, he was publicly reprimanded for failure to maintain proper time records and preserve the identity of client funds. *In re Moorman*, 118 N.J. 422. He was suspended from the practice of law for a period of three months in 1994 for gross neglect, lack of diligence, failure to keep a client informed about the status of the matter, and failure to explain the matter to his client. *In re Moorman*, 135 N.J. 1. In 1999, he received another reprimand for lack of diligence, failure to have a written fee agreement, failure to comply with record keeping requirements and failure to cooperate with disciplinary authorities. *In re Moorman*, 159 N.J. 523.

**Gary S. Friedmann** of Moorestown, Burlington County was suspended from practice for a period of three years by Supreme Court order dated February 3, 2003, effective March 1, 2003. The Court found that this attorney 1) entered into an improper business loan transaction with a client; 2) unilaterally changed the terms of the note to the detriment of the client; 3) never gave the client a mortgage on the property securing the loan, as required by the note; 4) did not have his wife sign the note, even though she and the respondent owned the property jointly; 5) made misrepresentations concerning his fees and services in his communications to the client; 6) asserted a fraudulent counterclaim in the client's lawsuit for payment of the loan (the principal of which was \$150,000); and 7) made misrepresentations to the Office of Attorney Ethics during the course of its investigation. That case was discovered solely as a result of the Random Audit Compliance Program.

A more general review of disciplinary sanctions imposed in 2003 demonstrates a broad variety of unethical conduct. Camden attorney **Luba Annenko** was disbarred for multiple instances of misconduct, including enlisting a disbarred attorney to help her "fleece" a client out of a retainer intended to obtain a bail hearing for the client's incarcerated fiancé. She then abandoned the case. **Raymond LeBon** of Burlington County was disbarred for knowingly misappropriating \$5,900 in legal fees due to the law firm with which he was associated. **Larry S. Geller** from Essex County was reprimanded by the Court for discriminatory misconduct arising out of his own divorce matter when he referred to the judge's rulings by remarking, "Monmouth County Irish have their own way of doing business." The respondent also engaged in bias and invective by alleging in various pleadings at the trial and appellate levels that one of the judges handling his case favored his wife "because she was from Monmouth County and Catholic, while respondent was from Essex County and Jewish." **Carl C. Bowman** of Gloucester County was suspended twice for six months and once for one year for, essentially, abandoning multiple clients, some in the middle of litigation. New York lawyer **Jay J. Chatarpaul** received a



reprimand when he attempted to collect his legal fee by advising the client that confidences and privileged information would be used against the client unless payment was forthcoming. **Steven W. Smoger** from Atlantic County was reprimanded after being previously removed as a municipal court judge for misrepresenting the fact that he continued to serve as a boxing referee after being told by the Administrative Director of the Courts not to do so. Morris County attorney **Maria P. Fornaro** was suspended from practice for three years for, among other things, lying to several judges and engaging in an unethical sexual relationship with a divorce client, which jeopardized her client's position as the custodial parent.

Bergen County lawyer **Melinda Lowell** was suspended for three years (in view of significant mitigating medical evidence) when she created fraudulent documents for a divorce client, elicited false testimony from a witness during a trial and made misrepresentations to clients. Camden attorney **David S. Rudenstein** was admonished for practicing law while ineligible for a period of 11 months after he failed to file his annual registration statement and make his required annual payment. The Supreme Court imposed a reprimand on **Kenneth N. Gjurich** from Burlington County after he admitted that he engaged in dishonest conduct when he collected unemployment benefits from the State of New Jersey while employed as an attorney in a Pennsylvania law firm. The Court suspended Essex County lawyer **Joseph A. Maffongelli** for one year for grossly neglecting ten separate client matters. He also was found guilty of improper dealings with the trial courts, including filing legal pleadings scrawled on court-generated notices or his adversary's pleadings and refusing to appear at scheduled court hearings despite repeated instructions by the court. Passaic attorney **Emilio Santiago** was suspended from practice for three months for concocting a "misidentification" plan to represent a DWI client. **Michael Magnola** of Union County was disbarred for the knowing misappropriation of in excess of \$53,000 of estate funds. **Richard C. Swarbrick** from Middlesex County was reprimanded for engaging in trial misconduct in three separate matters, including making numerous statements in front of the jury that the judge was unfair and prejudiced and, intending to disrupt the tribunal, announcing the time more than 130 times during the jury trial.

Criminal convictions always represent a significant portion of the serious cases resulting in attorney discipline. For 2003, these attorneys and their criminal offenses include the following: Atlantic County attorney **Pasquale J. Cardone** was disbarred for income tax evasion. **Jeff E. Thakker** of Middlesex County was reprimanded when he pled guilty to harassment, a petty disorderly offense, for harassing a former client by repeatedly telephoning her after she and the local police department had told him to stop. Union County attorney **Yale Fishman** was suspended for 18 months when he pled guilty to misprision of felony for helping to set up charitable trusts in an offshore jurisdiction. Although he later learned the proceeds involved securities fraud, he failed to report the criminal activity and acted to conceal the facts surrounding it. **Jon Christian Sajous** of New York was disbarred when convicted of criminal solicitation, arising out of his attempt to prevent a witness, a 14-year old boy, from testifying against his client by engaging a third party to threaten the witness with physical injury. A six-month suspension was imposed on **James W. Kennedy** of Ocean County for pleading to one count of the fourth-degree crime of endangering the welfare of a child, arising out of his downloading up to 30,000 pornographic pictures of children, some below the age of 16. Burlington County attorney **Nicholas Panarella, Jr.** received a three-year suspension when he pled guilty to being an accessory after the fact in a wire fraud scheme. Specifically, he caused a total of \$330,000 to be paid to a Pennsylvania State Senator and assisted him in concealing their financial relationship while the Senator took legislative actions that were favorable to respondent. Somerset attorney **John F. Richardson**, a former State court judge, pled guilty to an information charging him with a federal misdemeanor – knowing and willful failure to keep and maintain IRS Form 8300. The evidence showed that on 24 occasions between 1988 and 1998 his clients gave him cash ranging from \$1,000 to \$10,000 for a total of \$164,546, which he

suspected that his clients were trying to hide as income from the IRS. Essex attorney **Stanley J. Hausman** was suspended for a period of five years for pleading guilty to structuring monetary transactions to avoid federal reporting requirements. **Joseph E. Poveromo** of Bergen County was reprimanded when he pleaded guilty to the fourth degree crime of contempt, arising out of his knowing violation of a domestic violence order. **Susan E. Cardullo** of Morris County was reprimanded by the Supreme Court of New Jersey when she pled guilty to assault by auto, driving while intoxicated and leaving the scene of an accident. New York lawyer **Dorothy S. Tamboni** was suspended from practice for a period of three years when she was convicted of one count of witness tampering. **Stanley M. Yacker** of Monmouth was disbarred by consent when he pleaded guilty to conspiracy to commit wire fraud in connection with a real estate flipping operation. **James I. Peck, IV** from Essex County was suspended for 21 months as the result of his plea to possession of child pornography involving sexually explicit conduct of minors.

Of special note, too, is the fact that the Supreme Court imposed final discipline on seven New Jersey practitioners two or more times within calendar year 2003. As noted above, one lawyer, Elliott D. Moorman from Essex County was disciplined on four separate occasions. Carl C. Bowman of Gloucester County and Joseph E. Poveromo from Bergen County were each disciplined three times. Atlantic County practitioner Stephen S. Bartoletti, Mark D. Cubberley of Mercer County, Camden County lawyer Samuel A. Malat and David J. Witherspoon of Essex County were all disciplined twice this year.

**Figure 20**, located at the end of this chapter, contains a summary listing of all final and emergent discipline, and all reinstatement to practice cases decided in 2003. The summary is arranged first by type of sanction and then alphabetically by respondent. That listing is followed by an individual synopsis of each final disciplinary case arranged alphabetically by respondent.



## Causes of Final Discipline

The percentages and types of misconduct for which attorneys were disciplined in 2003 are shown in **Figure 18**. There were no changes among the top five reasons for discipline. As in past years, gross and patterned neglect (20.4%, with 33 of 162 cases) continues as the primary reason that attorneys are disciplined, not only in New Jersey, but nationwide. Attorneys who commit gross negligence are a clear danger to the public. While New Jersey does not discipline single instances of simple neglect, multiple instances of simple neglect may form a “pattern of neglect” and do constitute unethical conduct. Gross neglect of a single case is unethical. Last year, this category accounted for 19.5% of all sanctions.

Knowing misappropriation of trust funds at 10.5% (17 of 162 cases) constitutes the second most frequent reason for discipline in the state this year. Last year, the category was also second at 12.8%. Knowing misappropriation cases take on a special importance in this state. New Jersey maintains a uniform and unchanging definition of the offense of misappropriation as set forth in the landmark decision of *In re Wilson*, 81 N.J. 451 (1979). It is simply taking and using a client’s money knowing that it is the client’s funds and that the client has not authorized their use. Knowing misappropriation cases, involving either client trust funds or law firm funds, mandate disbarment.

Moreover, New Jersey has the most pro-active financial programs of any state in the Country, including Trust Overdraft Notification and Random Audits. The Trust Overdraft Notification Program began in 1985. It requires that all financial institutions report to the OAE whenever an attorney trust account check is presented against insufficient funds. During the 18 years of its existence, the Trust Overdraft Program has exclusively resulted in the discipline of 88 New Jersey lawyers. Almost six out of every ten attorneys (57%) disciplined as a result of the Overdraft Program were disbarred. In 2003, three attorneys were detected and disciplined



through this program: Michael H. Kessler of Union County – reprimand; Glen L. Schemanski of Camden County – reprimand; and Terrance N. Toner of Middlesex County - admonition.

The Random Audit Program began audits in 1981. While not designed primarily to detect misappropriation, audits conducted through the Random Audit Program (**Chapter 4**) have also resulted in the detection of a number of serious financial violations. Over the 22 years since it began, a total of 104 attorneys, detected solely by this program, have been disciplined for serious ethical violations. Over two-thirds (67%) of those attorneys were disbarred or suspended. This year, five attorneys were disciplined for committing serious financial violations: Burlington County attorney Gary S. Friedmann was suspended for a period of three years; Camden County attorney Daniel B. Zonies was reprimanded; Benjamin A. Silber from Salem County was Disbarred By Consent; Ocean County lawyer Charles D. Conway was Disbarred By Consent; and David N. Buda of Bergen County was Disbarred By Consent.

Tied for second this year was the category of fraud and misrepresentations (whether resulting from criminal or disciplinary findings), with 10.5% (17 of 162 cases). Last year, this category was third at 10.2%.

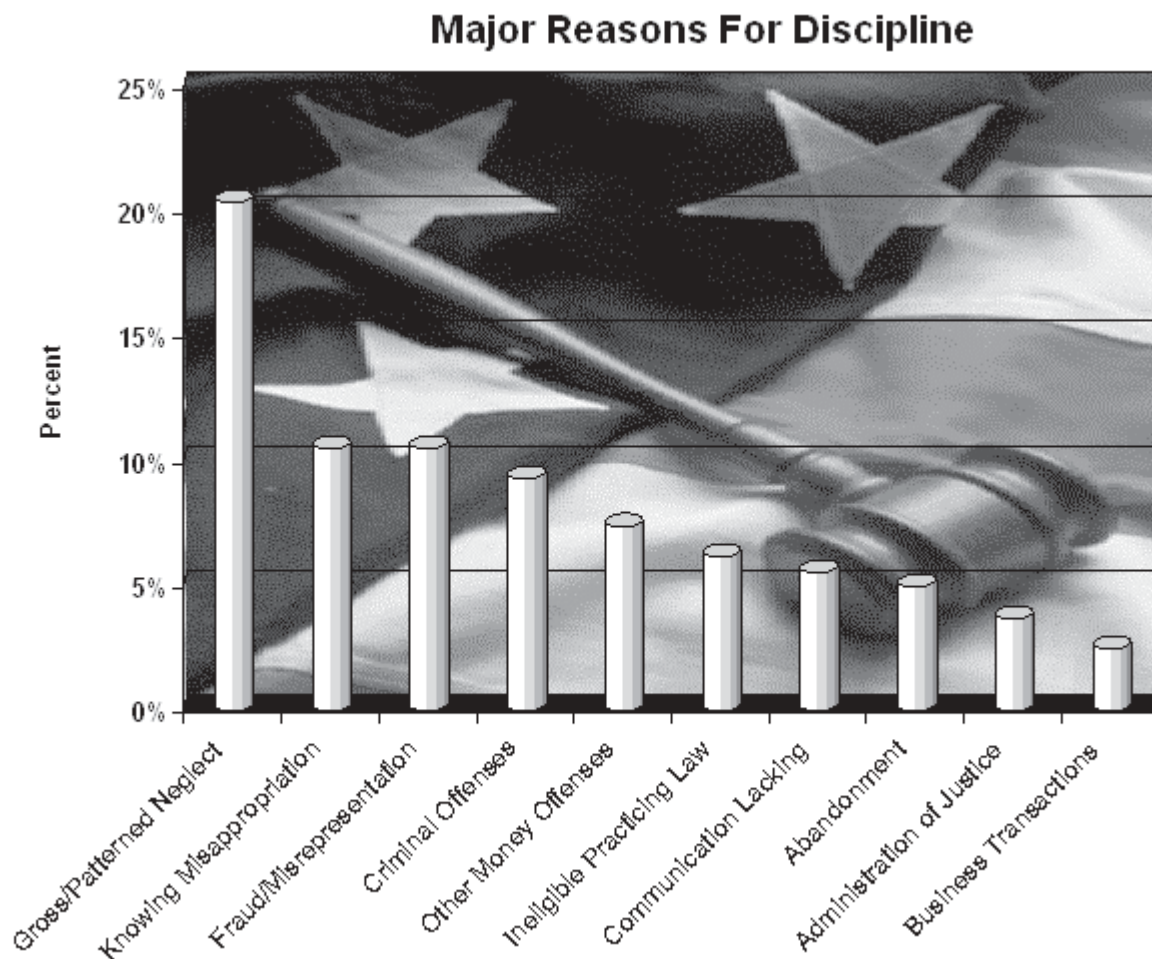


Figure 18

Criminal offenses (excluding misappropriation, fraud and drug convictions) were fourth at 9.3% this year (15 of 162 cases). Last year that class of matters was also in fourth place at 7.9%.

Rounding out the top five this year was the “other money offenses” group (including negligent misappropriation, record keeping, failure to safeguard and escrow violations), at 7.4% (12 of 162 cases). This is the same position held last year by this group at 6.6%.

The balance of the top ten causes for discipline were the following:

6. Ineligible practicing law, at 6.2% (10 of 162) was tied for sixth. This violation arises when lawyers continue to engage in the practice of law after being declared ineligible to do so by order of the Supreme Court when they fail to pay their mandatory annual registration fee. Last year, it was eighth on the list at 3.5%.

7. At 5.6%, the violation of lack of communication with clients was sixth with 9 of 162 matters. Lawyers are ethically required by *RPC* 1.4 to “keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information” and must “explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”

8. A new category of cases, abandonment, came in eighth place in 2003 with 4.9% of the sanctions (8 of 162). Abandonment is an extension of gross neglect matters, except that it represents an intentional determination to disregard one or more client matters. Often, as in most of the cases in this category this year, abandonment consists of a decision to walk away from the attorney’s responsibilities to all clients. Thus, it is a particularly serious violation.

9. Administration of justice matters was ninth at 3.7% (6 of 162). These situations ranged from abuse of power by an attorney while serving as a municipal court judge, to filing false pleadings, to concocting a misidentification plan for a defendant in a municipal court matter.

10. Business transactions with clients completed the top ten offenses at 2.5% (4 of 162). Lawyers have special ethical obligations when dealing with clients in business transactions. *RPC* 1.8(a) requires stringent safeguards so that the lawyer does not take advantage of his/her own client. The terms and the transaction must be fair and reasonable. The client is required to be afforded advice by an independent attorney and must be told all of the facts. The client is then required to consent to the transaction in writing.



## Emergent Discipline Cases

Emergent discipline is interim disciplinary action taken to protect the public interest. It is sought in accordance with *R. 1:20-11* whenever the OAE believes a serious violation of ethical rules causes an attorney to pose a “substantial threat of serious harm to an attorney, a client or the public.” Emergent discipline is also sought under *R. 1:20-12* where, due to mental or physical incapacity, the attorney poses a danger to him/herself or others.

Emergent discipline takes one of three forms: a temporary suspension from practicing law, the imposition of a restriction or condition on the attorney’s right to practice law or a transfer to temporary disability-inactive status where, due to health reasons, an attorney lacks the capacity to practice law. Both temporary suspensions and transfers to disability-inactive status prevent the attorney from again practicing law until reinstated by the Supreme Court. Temporary license restrictions permit the lawyer to practice, but place conditions on that privilege.

The number of emergent actions decreased by 24% in 2003 over the number secured the prior year. **Figure 19.** This year a total of 31 attorneys were disciplined on an emergent basis, consisting of 29 temporary suspensions, no license restrictions and two temporary transfers to disability-inactive status. In 2002, a total of 41 emergent actions were taken, comprised of 35 temporary suspensions, 2 license restrictions and 4 temporary transfers to disability-inactive status.

Misconduct leading to emergent action involves serious ethical violations that put the public or the profession at risk if the attorney continues to practice law unfettered. The most frequent reason for emergent action in 2003 was misappropriation of clients' trust funds, which accounted for 14 cases, or 45% of all emergent actions. Last year this offense accounted for 34% (14) of such cases. That number is double the number of cases (7) that supported interim suspensions in 2001. An attorney's criminal conviction of a "serious crime" as defined in *R. 1:20-13*, was the second leading reason for emergent actions in 2003. This year, seven cases, or 23% of emergent sanctions, resulted from convictions. This number was slightly lower than last year, when 11 attorneys (27%) were temporarily suspended for this same reason. The definition of "serious crime" includes first and second degree crimes, interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation and theft. The third most frequent reason for emergent suspensions in 2003 was the non-payment of fee arbitration awards, five cases (16%). Where a lawyer fails to refund legal fees ordered by a district fee arbitration committee, the OAE, after advance notice to the attorney, may seek to enforce the arbitration ward by a motion for temporary suspension from practice. In 2002, two suspensions (4%) were imposed for this reason.

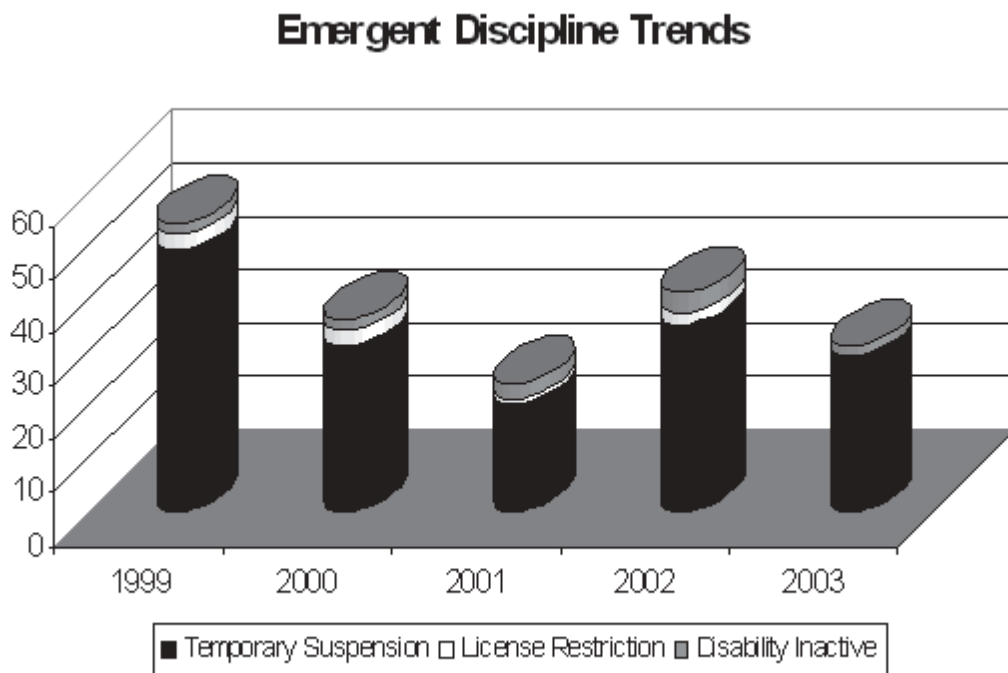


Figure 19

On average, thirty-seven lawyers each year were the subjects of emergent actions over the course of the past five years. In 2002, a total of 41 emergent actions were secured (35 temporarily suspended, two licenses was restricted and four were transferred to disability inactive status). Twenty-four lawyers were so disciplined in 2001 (20 were temporarily suspended, one license was restricted and three were transferred to disability inactive status). During 2000, a total of 36 attorneys were subject to emergent discipline (31 were temporarily suspended, three received license restrictions and two were transferred to disability-inactive status). For 1999 a total of 54 emergent actions were imposed, an all-time high in this category. Of those 54 emergent actions, 49 resulted in temporary suspensions from practice; three attorneys were subject to temporary license restrictions; and two were placed on temporary disability-inactive status. The names of attorneys who received interim discipline for 2003 are listed in **Figure 20** at the end of this chapter.



## Related Disciplinary Actions

In addition to disciplinary sanctions, the attorney disciplinary system also handles a significant number of other related disciplinary actions involving New Jersey attorneys. During 2003, the disciplinary system handled a total of 110 such actions. Related disciplinary actions include: contested Character Committee cases, Bar Admission cases where allegations of cheating are made, diversionary actions by which attorneys who commit “minor misconduct” may avoid discipline if they complete specific conditions, prosecutions for contempt of a Supreme Court order to cease practicing law by suspended or disbarred lawyers, reinstatement proceedings involving suspended attorneys and cases where disciplined lawyers are monitored for a period of time after discipline is imposed. These related actions are explained further hereafter.



## Character and Bar Admission Cases

Where there is a substantial question as to whether or not an applicant has demonstrated the moral fitness requisite to be admitted to practice law in this state, the matter is brought on for oral argument before the Supreme Court of New Jersey. The Court assigns the OAE to represent the Character Committee at all oral arguments.

All applications for admission to the bar are reviewed initially by the Supreme Court’s Committee on Character through investigations and, where appropriate, hearings. Character Committee proceedings are conducted in accordance with *R. 1:25* in order to determine the applicant’s “fitness to practice.” The Character Committee may hold hearings, after which a recommendation either to certify or to withhold certification is filed with the Supreme Court. Thereafter, the Court may issue an Order To Show Cause why the applicant should not be admitted to practice. Oral argument is held before the Court in Trenton. In order to meet fitness requirements to practice law in this state, a bar applicant must possess the traits of honesty, truthfulness, trustworthiness and reliability. The OAE argued two character cases in 2003. Last year, the OAE completed four cases before the Court.

The Supreme Court also assigns to the OAE investigations and, if warranted, prosecutions of attorneys suspected of cheating on the state’s bar examination test. There were no such cases this year. Unlike attorney disciplinary matters, which are public under *R. 1:20-9* after a formal complaint is filed, both Character Committee and Bar Examination cases are completely confidential during their entire processes.



## **Diversiónary Actions**

New Jersey attorneys who are guilty of “minor” misconduct may be eligible for diversion from the disciplinary system where the attorney admits to the misconduct and agrees to undertake certain remedial measures. In these cases, both the district ethics committee chair and the OAE Director must approve diversion for the respondent to be accepted. A grievant is given a period of ten days notice and an opportunity to comment on the proposal to the Director, OAE prior to his consideration and any acceptance of proposed diversionary treatment. However, the decision to divert a case is not appealable by a grievant. Diversionary treatment is only available during the investigative stage of a matter.

“Minor” misconduct is behavior that will likely warrant no more than an admonition, the least serious of all disciplinary sanctions, even if the matter proceeded further through the disciplinary system. Treating appropriate cases by diversion early on in the disciplinary process, allows an attorney to (1) acknowledge his or her mistake, and (2) take some remedial steps (which sometimes are beneficial to the grievant). This process also allows the disciplinary system to focus resources on the more serious cases by early closing of diversionary cases. Diversion results in non-disciplinary treatment, usually conditioned on certain remedial action by the attorney for a period not to exceed six months. If successfully completed, the underlying grievance is dismissed with no record of discipline. If diversion is unsuccessful, a disciplinary complaint is filed and prosecuted.

During calendar year 2003, a total of 55 requests for diversion were received by the OAE. Of that number, 51 were accepted and 4 were rejected. By the end of the year, 30 of the 51 cases were successfully completed, one failed and 20 were still pending. Last year, a total of 64 requests for diversion were received by the OAE and all but one was accepted. By the end of 2002, 36 of the 64 cases were successfully completed, one failed and 28 were still pending. Cases where respondents fail to complete agreed conditions are referred to as failed diversions and are returned to district ethics committees for the filing of a formal complaint leading to the imposition of discipline. In those cases, the respondent’s written signed agreement in lieu of discipline is introduced into evidence as proof of the misconduct. This action streamlines hearings of failed diversion cases.

The most common offenses giving rise to diversion in 2003 were: gross negligence/lack of diligence and/or communication (22); isolated instances of poor record keeping (8); and minor conflicts of interest violations (4). Last year’s most common diversion offenses were: gross negligence/lack of diligence or communication (22); isolated instances of practicing while ineligible (8); and bona fide office violations (7).

The New Jersey State Bar Association’s Ethics Diversionary Education Course was the most common condition imposed in diversionary matters this year (39). Other required conditions included taking an ICLE or legal education course (17) and sending letters of apology (14). Last year, attendance at the State Bar’s Diversionary Course was also the primary remedial condition (50).



## **Contempt Prosecutions**

Supreme Court orders of suspension and disbarment enjoin attorneys from practicing law. For disbarred attorneys, the injunction is permanent. For suspended attorneys, the injunction applies until the period of suspension expires and until the attorney applies for and is granted reinstatement by order of the Supreme



Court. Moreover, *R. 1:20-20(a)* requires that no New Jersey attorney or law firm may “in connection with the practice of law, employ, permit or authorize to perform services for (them) or share or use office space” with a disbarred or suspended attorney or one who has been transferred to disability-inactive status. A growing number of respondent-attorneys have presented problems for the disciplinary system in recent years by failing to abide the Court’s injunction against practicing.

Because of the high visibility of these challenges to the authority of the disciplinary system and because of the potential harm to the public, the Supreme Court has authorized prosecution of these cases as contempt. *R. 1:20-16(i)* provides that the OAE may file and prosecute an action for contempt before the Assignment Judge of the vicinage where the respondent engaged in the prohibited practice of law. Alternatively, the OAE also has the authority to file disciplinary complaints against offending attorneys seeking sanctions for their violations.

The contempt procedure was not utilized in 2003, the OAE instead opting to file disciplinary complaints against suspended attorneys. Nevertheless, the contempt procedure is important in those cases where the attorney presents a continuing danger to the public and will not cease and desist when contacted by the OAE. Contempt has been used a number of times in recent years.

During 2002, the OAE secured one contempt conviction against Kenneth Van Rye of Bergen County. Assignment Judge Sybil R. Moses of Bergen County assessed a fine of \$250. Suspended Essex County lawyer Jessie Jenkins, III of Essex County and disbarred attorney Leslie Dienes from Middlesex County were adjudicated in contempt of the Supreme Court in 2001. In calendar year 2000, Ocean County attorney William C. Gasper, Jr., who was then temporarily suspended, was found in contempt. No contempts were filed in 1999. In 1998, the OAE was successful in having a disbarred attorney, Jerrold M. Fleisher of Bergen County, and an attorney under an order of temporary suspension, Robert D. Meenen of Passaic County, declared in contempt.



## Reinstatement Proceedings

When an attorney is suspended from the practice of law, reinstatement may be achieved only after review by the OAE, the Review Board and by order of the Supreme Court. There is no procedure for a disbarred attorney to apply for reinstatement. In New Jersey, disbarment is permanent. *In re Wilson*, 81 N.J. 451, 456 n5 (1979) and *R. 1:20-15A(a)(1)*.

Where the attorney is suspended for more than six months, a reinstatement petition may not be made until after expiration of the time period provided in the order of suspension. *R. 1:20-21(a)*. Where the suspension is for a period of six months or less, the attorney may file the reinstatement petition and publish the required public notice 40 days prior to the expiration of the suspension period. *R. 1:20-21(b)*.

The burden of proof in reinstatement proceedings is on the suspended attorney. Notice and an opportunity to comment are provided to the OAE. The Review Board then assesses the matter and files its recommendation with the Supreme Court, which takes final action on all reinstatement requests. Public comment is also encouraged as the attorney seeking reinstatement must publish notice of the petition in the New Jersey Law Journal and New Jersey Lawyer (weekly legal periodicals to which many practicing attorneys subscribe) and in a newspaper of general circulation in each county in which the attorney practiced and/or resided at the time of the imposition of discipline. During 2003, 16 suspended attorneys were reinstated to the practice of law. In 2002, the Court reinstated 23 suspended attorneys. In earlier years, reinstatement was ordered for 13 lawyers in 2001, 13 in 2000 and 18 in 1999. **Figure 20**, located at the end of this chapter, contains a list of all attorneys who were reinstated this year.



## Monitoring Disciplined Attorneys

Attorneys are subject to monitoring conditions imposed by the Supreme Court of New Jersey, either as a result of previous reinstatement proceedings or in connection with sanctions imposed in disciplinary proceedings. Generally, practice conditions ordered by the Court are of two types.

A proctorship is imposed on those attorneys whom the Court believes need intensive guidance and oversight by a seasoned practitioner. Such conditions are imposed in accordance with *R. 1:20-18*. This rule imposes specific reporting responsibilities on both the attorney as well as the proctor, including weekly conferences, the maintenance of time records and instructions regarding proper financial record keeping.

Another typical condition imposed by the Court in instances involving financial violations, but which do not result in disbarment, is the submission of an annual or quarterly audit report covering all attorney trust and business records. The entire cost of the audit is borne by the attorney as a cost of continued licensing. The audit report includes (1) a schedule of the clients' trust ledgers as of the audit date, with a reconciliation to the trust checkbook balance and to the bank statement, and (2) a detailed certification specifying, by correlatively numbered paragraphs, how the attorney has fully complied with each and every applicable section of our detailed record keeping rule (*R. 1:21-6*).

Other conditions, which have been utilized more sparingly, are community service and drug testing. Under community service, an attorney is required to perform legal services for a community service oriented agency. Those attorneys subject to drug testing are required to undergo random, periodic drug testing at the attorney's expense.

Finally, some attorneys, although not monitored on a regular basis, have been placed under some type of license restriction by the Court. Examples of this type of license restriction are permission to practice only as house counsel for a corporation or the requirement that all attorney financial checks be co-signed by a designated third party. Twenty-eight (28) attorneys were being monitored as of December 31, 2003.

**OUSMANE D. AL-MISRI** of Newark (ESSEX COUNTY) was admonished on December 20, 2002 for neglect, lack of diligence and failure to adequately communicate with a client in a real estate matter. He was required to take ten hours of real estate education courses and to utilize a proctor for future real estate transactions.

**MICHAEL P. BALINT** of Plainsboro (MIDDLESEX COUNTY) was reprimanded on December 4, 2001 [*170 N.J. 198*] and ordered to practice under an indefinite proctorship. The reprimand resulted from charges of gross neglect, failure to communicate, failure to properly safeguard client funds and failure to expedite litigation.

**LOUIS B. BERTONI** of Clifton (PASSAIC COUNTY) was reprimanded on October 31, 2000 [*165 N.J. 542*] and required to provide quarterly reconciliations of his attorney trust account, practice law under supervision and have all trust account checks co-signed by his supervising attorney. The reprimand resulted from violations of record keeping requirements and failure to cooperate with disciplinary authorities.

**VINCENT E. BEVACQUA** of South Orange (ESSEX COUNTY) was, on September 5, 2002, [*174 N.J. 296*] ordered to practice under a proctorship for two years. The Court further reprimanded him for violations that included gross neglect, pattern of neglect, failure to communicate, failure to provide retainer agreement and failure to protect a client's interests on termination of representation.

**SUSAN E. CARDULLO** of Lincoln Park (MORRIS COUNTY) was reprimanded on January 14, 2003 [*175 N.J. 107*] and ordered to submit quarterly alcohol recovery reports for two years. The Court further reprimanded her after her conviction for the fourth-degree crime of assault by auto.



**THOMAS J. FORKIN** of Atlantic City (ATLANTIC COUNTY) was reinstated to the practice on July 23, 2002 [167 N.J. 154] and required to practice under a proctorship for two years. Mr. Forkin had been suspended for one year for multiple ethical violations, including misrepresentations to a tribunal.

**JEFFREY A. FOUSHEE** of East Orange (ESSEX COUNTY) was reinstated to the practice on August 15, 2003 [149 N.J. 399] and ordered to practice under a proctorship for one year. Mr. Foushee had been suspended for three months after his conviction for the third-degree crime of possession of cocaine. Prior to that, he was suspended for three years, on June 3, 1997, for misconduct in four cases, in which he engaged in gross neglect, failure to communicate with clients, failure to prepare written fee agreements and failure to cooperate with ethics authorities.

**STEVE HALLETT** of Trenton (MERCER COUNTY), on June 5, 2001, [167 N.J. 610] was ordered to complete six hours of courses in municipal court practice and in law office management. He was also reprimanded for failure to communicate with a client, failure to have a written fee agreement and filing a frivolous notice of appeal.

On November 1, 2002 [174 N.J. 403] Mr. Hallet received another reprimand for failing to cooperate with the district ethics committee and gross neglect. The Court also required Mr. Hallett to continue psychotherapy, continue to attend Narcotics Anonymous and Alcoholics Anonymous meetings and to undergo random drug screening.

**GARY T. JODHA** of Princeton Junction (MERCER COUNTY) was reprimanded on November 1, 2002 [174 N.J. 407] and directed to provide quarterly reconciliations of his attorney trust account for two years. The reprimand resulted from gross neglect, failure to communicate with a client and record keeping violations.

**JAMES R. LISA** of Bayonne (HUDSON COUNTY) was reinstated to the practice on January 8, 2002, [158 N.J. 5] directed to practice under a proctorship for two years as well as to continue participation in Alcoholics Anonymous and submit to drug screening for a period of three years. Mr. Lisa had been suspended from the practice for one year for misrepresenting his status to a judge.

**JOHN D. LYNCH** of Union City (HUDSON COUNTY), on September 5, 2002, [174 N.J. 295] was required to practice under proctorship for two years. Mr. Lynch was also reprimanded for grossly neglecting several client matters, failing to communicate with clients and failing to cooperate with ethics authorities in the investigation of the cases.

**THOMAS F. MILITANO** of Newton (SUSSEX COUNTY) was ordered, on May 20, 2003, [176 N.J. 265] to practice under a proctorship for two years. Mr. Militano was also reprimanded for failing to maintain a bona fide office and failing to cooperation with disciplinary authorities.

**FRANCIS R. MONAHAN, JR.** of Jersey City (HUDSON COUNTY) was admonished on July 3, 2003 for failing to adequately communicate with a client and was required to complete a course on proper office procedure.

**THOMAS M. MURRAY, JR.** of Hackensack (BERGEN COUNTY) was ordered by the Court, on September 4, 2003, [177 N.J. 503] to submit proof of his fitness to practice law. At that time Mr. Murray was also reprimanded for gross neglect, failing to communicate with a client and conduct involving dishonesty, fraud, deceit or misrepresentation.

**WALTER D. NEALY** of Hackensack (BERGEN COUNTY) was reprimanded on December 4, 2001 [170 N.J. 193] and ordered to provide quarterly reconciliations of his attorney accounts for two years and complete a course in accounting within one year. The reprimand resulted from violations of trust recordkeeping requirements including the failure to safeguard client funds.

**BEN W. PAYTON** of Colonia (MIDDLESEX COUNTY) was reinstated to the practice on December 26, 2002 [172 N.J. 34] and ordered to practice under a proctorship for one year. Mr. Payton had been suspended for three months for ignoring communications from a client and failing to provide the client with a

written retainer agreement. Before the imposition of this suspension, Mr. Payton had received a prior admonition, reprimand and three-month suspension, in 2001, for similar misconduct.

**ROGER C. PETERMAN** of Englewood (BERGEN COUNTY) was reinstated to the practice on February 20, 2003 [174 N.J. 341] and ordered to submit to random drug testing for one year. Mr. Peterman had been suspended for a period of six months, after pleading guilty in Superior Court to one count of obtaining a controlled dangerous substance by fraud, a third-degree crime.

**FERNANDO REGOJO** of Union City (HUDSON COUNTY) was reprimanded on November 14, 2001 [170 N.J. 67] and required to provide quarterly trust account reconciliations for two years. The reprimand resulted from violations of record keeping requirements including the failure to promptly pay funds to third parties.

**ROBERT G. ROSENBERG** of Paterson (PASSAIC COUNTY) was ordered, on February 5, 2002, [170 N.J. 402] to practice under a proctorship for two years as well as to submit quarterly reconciliations of his attorney accounts. The Court also reprimanded Mr. Rosenberg for the negligent misappropriation of client trust funds and the failure to maintain adequate trust and business account records.

**GLENN L. SCHEMANSKI** of Cherry Hill (CAMDEN COUNTY) was reprimanded by the Court on January 14, 2003 [175 N.J. 104] and ordered to submit quarterly reconciliations of his attorney accounts indefinitely. Mr. Schemanski's reprimand was based on negligent misappropriation of client funds and record keeping deficiencies.

**DANIEL M. SHAPIRO** of Hackensack (BERGEN COUNTY) was ordered, on October 15, 2002, [174 N.J. 368] to practice under a proctorship for two years. Mr. Shapiro was also reprimanded for gross neglect, failure to communicate with the client and failure to cooperate with ethics authorities.

**JEFF E. THAKKER** of Sea Girt (MONMOUTH COUNTY) was reprimanded by the Court on July 17, 2003, [177 N.J. 228] based on his guilty plea to the petty disorderly persons offense of harassment. The Court further ordered Mr. Thakker to submit medical proof of his fitness to practice law.

**RAYMOND M. TORRES, JR.** of West Orange (ESSEX COUNTY) was reprimanded by the Court on May 6, 2003 [177 N.J. 228] and ordered to practice under the supervision of a proctor for one year and to submit quarterly reconciliations of his attorney trust account for two years. Mr. Torres' reprimand resulted from gross neglect, failure to communicate with a client, improper business transactions with a client and record keeping violations.

**JOHN A. TUNNEY** of Woodbridge (MIDDLESEX COUNTY) was ordered by the Court, on May 20, 2003, [176 N.J. 273] to submit medical proof of his fitness to practice law. Mr. Tunney was also reprimanded for violations that included gross neglect, failure to communicate and failure to cooperate with disciplinary authorities.

**LUANN K. WONSKI** of Sewaren (MIDDLESEX COUNTY) was reprimanded by the Court on September 4, 2003 [177 N.J. 508] for failing to properly communicate with a personal injury client and to withdraw from the representation after her services were terminated. She also failed to cooperate with disciplinary authorities. She was also ordered by the Court to practice under a proctorship and to submit proof of her mental fitness to practice law.

**CASELL WOOD, JR.** of Plainfield (UNION COUNTY) was reinstated to the practice on August 21, 2002 [170 N.J. 628] and ordered to provide quarterly reconciliations of his attorney trust account for two years. Mr. Wood had been suspended from the practice for three months for the negligent misappropriation of client funds due to his failure to maintain required trust account records and for employing a disbarred attorney to perform services for him.

**RICHARD J. ZEITLER** of Iselin (MIDDLESEX COUNTY) was directed by the Court, on October 3, 2000, [165 N.J. 503] to practice under a proctorship for two years. Mr. Zeitler was also

reprimanded for failing to act diligently in handling a personal injury matter and failing to communicate with a client.

**DANIEL B. ZONIES** of Cherry Hill (CAMDEN COUNTY) was ordered, on January 14, 2003, [*175 N.J. 106*] to submit quarterly reconciliations of his attorney trust account for a period of two years. The Court also reprimanded Mr. Zonies for failing to safeguard client funds, failing to deliver funds properly to clients and third parties and record keeping violations.

During calendar year 2003, thirteen attorneys were added to the list of those being monitored by the OAE:

Al-Misri, Cardullo, Foushee, Militano, Monahan, Murray, Peterman, Schemanski, Thakker, Torres, Tunney, Wonski and Zonies.

A total of ten attorneys were removed from the OAE supervision list:

James C. De Zao Parsippany (Morris County); Daniel Ellis of Warren (Somerset County); Robert Feuchtbaum of Wayne (Passaic County); James P. Fox of Newton (Sussex County); David M. Gorenberg of Moorestown (Burlington County); Stephen M. Hildebrand of Cherry Hill (Camden County); Michael H. Kessler of Union (Union County); Samuel A. Malat of Haddon Heights (Camden County); Lee Jasper Rogers of Red Bank (Monmouth County); and Benjamin A. Silber of Carneys Point (Salem County).

# OFFICE OF ATTORNEY ETHICS

## YEARLY DISCIPLINE REPORT

(JANUARY 1, 2003 - DECEMBER 31, 2003)

### DISBARMENT (11)

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Annenko, Luba	1983	Camden	10/08/03	10/08/03
Caney, Joel D.	1980	Camden	05/20/03	05/20/03
Cardone, Pasquale J.	1976	Atlantic	02/03/03	02/03/03
Davis, James T., II	1984	Essex	02/24/03	02/24/03
Gruber, Richard L.	1977	Essex	09/23/03	09/23/03
LeBon, Raymond T.	1979	Camden	09/09/03	09/09/03
Magnola, Michael	1976	Union	03/04/03	03/04/03
Martin, Jr., Arthur N.	1973	Essex	06/27/03	06/27/03
Sajous, Jon Christian	1986	Essex	02/20/03	02/20/03
Smallwood, Leslie A.	1992	Pennsylvania	06/20/03	06/20/03
Van Rye, Kenneth	1979	Bergen	05/06/03	05/06/03

### DISBARMENT BY CONSENT (12)

Buda, David N.	1981	Bergen	12/23/03	12/23/03
Conway, Charles D.	1976	Ocean	05/20/03	05/20/03
Farley, William J., Jr.	1978	Monmouth	07/01/03	07/01/03
Franco, Juan A.	1994	Union	01/09/03	01/09/03
Greengarten, Jay D.	1973	Middlesex	08/05/03	08/05/03
Jones, Thomas J.	1975	Essex	07/24/03	07/24/03
Maloney, Andrew G.	1988	New York	09/23/03	09/23/03

Figure 20

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Mole', Michael G.	1980	Union	10/01/03	10/01/03
Reisman-Sholom, Beth B.	1989	Monmouth	05/07/03	05/07/03
Silber, Benjamin A.	1976	Salem	03/10/03	03/10/03
Ward, Carol	1992	Middlesex	07/07/03	07/07/03
Yacker, Stanley M.	1963	Monmouth	07/07/03	07/07/03

### **TERM SUSPENSION (61)**

Adler, Steven A. – 12 mo.	1973	New York	10/14/03	03/06/03
Avrigian, Ara F. – 3 mo.	1998	Camden	02/21/03	03/24/03
Bartolett, Charles Stephen – 3 mo.	1983	Atlantic	07/01/03	08/01/03
Bartolett, Charles Stephen – 3 mo.	1983	Atlantic	09/04/03	11/01/03
Basaman, Edward Thomas – 3 mo.	1991	Hudson	07/01/03	08/01/03
Bowman, Carl C. – 12 mo.	1962	Gloucester	11/12/03	05/14/04
Bowman, Carl C. – 6 mo.	1962	Gloucester	01/14/03	01/14/03
Bowman, Carl C. – 6 mo.	1962	Gloucester	11/12/03	11/12/03
Brandon-Perez, Sylvia A. – 3 mo.	1976	Hudson	09/30/03	10/27/03
Bruneio, Anthony C. – 60 mo.	1991	South Carolina	09/30/03	09/30/03
Casey, Patrick M. – 3 mo.	1987	Atlantic	05/06/03	05/06/03
Cheek, Russell G. – 3 mo.	1980	Ocean	11/21/03	12/29/03
Clark, Douglas R. – 6 mo.	1968	Sussex	03/11/03	03/11/03
Cruz, Mariano F. D. – 24 mo.	1993	California	09/16/03	09/16/03
Cubberley, Mark D. – 36 mo.	1984	Mercer	11/21/03	12/09/03
Cubberley, Mark D. – 6 mo.	1984	Mercer	11/21/03	12/09/03
DeBosh, James S. – 3 mo.	1992	Warren	06/02/03	04/02/02
Devin, Donald B. – 3 mo.	1969	Warren	05/20/03	05/20/03
DiFazio, Charles Anthony – 60 mo.	1987	Pennsylvania	09/04/03	08/21/02
Fishman, Yale M. – 18 mo.	1991	Union	09/30/03	08/30/02
Fornaro, Maria P. – 36 mo.	1989	Morris	02/20/03	02/20/03
Friedmann, Gary S. – 36 mo.	1987	Burlington	02/03/03	03/01/03
Gavin, Francis X. – 3 mo.	1981	Warren	05/20/03	12/19/02
Greenberg, Illene G. – 3 mo.	1986	Camden	01/14/03	01/14/03
Harrigan, Thomas Q. – 6 mo.	1983	Gloucester	10/14/03	12/25/02

<b><u>ATTORNEY</u></b>	<b><u>ADMITTED</u></b>	<b><u>LOCATION</u></b>	<b><u>DECIDED</u></b>	<b><u>EFFECTIVE</u></b>
Hausman, Stanley J. – 60 mo.	1970	Essex	09/30/03	02/10/99
Kalman, Arnold I. – 12 mo.	Pro Hac	Pennsylvania	10/14/03	10/14/03
Kantor, Philip L. – 3 mo.	1990	Gloucester	11/21/03	11/21/03
Kennedy, James W. – 6 mo.	1983	Ocean	09/16/03	10/13/03
Kress, Richard H. – 12 mo.	1979	Union	07/10/03	08/11/03
Lowell, Melinda – 36 mo.	1981	Bergen	11/21/03	05/30/02
Maffongelli, Joseph A. – 12 mo.	1969	Essex	07/01/03	08/01/03
Malat, Samuel A. – 3 mo.	1989	Camden	03/11/03	04/07/03
Malat, Samuel A. – 3 mo.	1989	Camden	09/04/03	07/07/03
McClure, Larry J. – 6 mo.	1971	Bergen	04/24/03	05/21/03
Moeller, G. Jeffrey – 12 mo.	1978	Essex	09/04/03	10/04/03
Moore, Patrick J. – 12 mo.	1989	Camden	01/14/03	01/14/03
Moorman, Elliott D. – 12 mo.	1977	Essex	11/21/03	08/28/03
Moorman, Elliott D. – 12 mo.	1977	Essex	11/21/03	08/28/03
Moorman, Elliott D. – 3 mo.	1977	Essex	01/28/03	02/28/03
Moorman, Elliott D. – 3 mo.	1977	Essex	06/20/03	05/28/03
Nwaka, Anthony C. – 3 mo.	1992	Essex	07/01/03	08/01/03
Panarella, Nicholas, Jr. –36 mo.	1974	Pennsylvania	09/30/03	04/03/01
Paskey, Paul J. – 6 mo.	1983	Hudson	02/26/03	06/18/03
Peck, James I., IV – 21 mo.	1974	Essex	07/23/03	10/25/01
Poveromo, Joseph – 3 mo.	1988	Bergen	09/30/03	09/25/03
Poveromo, Joseph E. – 3 mo.	1988	Bergen	06/20/03	06/20/03
Raines, Richard W. – 3 mo.	1977	Union	06/03/03	06/03/03
Rodgers, John F., Jr. – 3 mo.	1970	Camden	09/04/03	10/04/03
Rosanelli, Donald S. – 6 mo.	1981	Essex	05/20/03	06/22/03
Rosenthal, Richard L. – 6 mo.	1965	Passaic	10/14/03	11/15/03
Samay, Wolf A. – 36 mo.	1980	Passaic	02/11/03	03/12/03
Santiago, Emilio – 3 mo.	1995	Passaic	02/26/03	03/28/03
Schiavo, Thomas J. – 36 mo.	1979	Morris	05/06/03	02/02/01
Schlem, Stuart P. – 3 mo.	1983	Monmouth	02/11/03	03/12/03
Servin, Jeffrey D. – 3 mo.	1977	Camden	06/20/03	07/21/03
Smith, Joan Gertsacov – 36 mo.	1974	Burlington	11/21/03	11/21/03

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Stenhach, Walter M. – 9 mo.	1981	Pennsylvania	09/16/03	09/16/03
Tamboni, Dorothy S. – 36 mo.	1991	New York	07/01/03	07/01/03
Wood, Peter A. – 3 mo.	1993	Gloucester	03/11/03	11/14/02
Zaruba, Karel L. – 12 mo.	1977	Florida	09/30/03	09/30/03

## **CENSURE (2)**

Myers, Cynthia Sharp	1983	Camden	10/27/03	10/27/03
Wood, Scott	1988	Burlington	09/09/03	09/09/03

## **REPRIMAND (43)**

Cardullo, Susan E.	1996	Morris	01/14/03	01/14/03
Carlin, Kevin J.	1985	Mercer	05/20/03	05/20/03
Chatarpaul, Jay J.	1996	New York	01/14/03	01/14/03
DeMasi, Jon M.	1991	Camden	11/21/03	11/21/03
Dorian, Howard M.	1978	Essex	04/24/03	04/24/03
Forman, Steven Clark	1985	Camden	10/27/03	10/27/03
Geller, Larry S.	1980	Essex	09/04/03	09/04/03
Gjurich, Kenneth N.	1991	Burlington	07/10/03	07/10/03
Goldring, Eric J.	1984	Monmouth	11/12/03	11/12/03
Hall, Rupert Arvel, Jr.	1983	Burlington	07/01/03	07/01/03
Hutchins, Charles Thomas	1998	Cumberland	09/16/03	09/16/03
Jackson, Cynthia Denise	1987	Hudson	06/20/03	06/20/03
Johnathan, Kenneth L., Jr.	1985	Monmouth	10/27/03	10/27/03
Kessler, Michael H.	1969	Union	11/21/03	11/21/03
Kozlowski, Theodore F.	1978	Morris	10/27/03	10/27/03
Mikita, William P., Jr.	1994	Middlesex	09/30/03	09/30/03
Milita, Vincent J., II	1980	Cape May	07/09/03	07/09/03
Militano, Thomas F.	1991	Sussex	05/20/03	05/20/03
Mirsky, Steven E.	1977	Middlesex	06/03/03	06/03/03
Murray, Thomas M., Jr.	1971	Bergen	09/04/03	09/04/03
Pierce, Deborah A.	1994	Union	09/04/03	09/04/03
Poveromo, Joseph E.	1988	Bergen	06/20/03	06/20/03
Richardson, John F.	1968	Middlesex	07/17/03	07/17/03



<b><u>ATTORNEY</u></b>	<b><u>ADMITTED</u></b>	<b><u>LOCATION</u></b>	<b><u>DECIDED</u></b>	<b><u>EFFECTIVE</u></b>
Salvaggio, David	1977	Morris	11/12/03	11/12/03
Schemanski, Glen L.	1979	Camden	01/14/03	01/14/03
Schetlick, William E.	1990	Warren	06/20/03	06/20/03
Smoger, Steven W.	1969	Atlantic	05/06/03	05/06/03
Swarbrick, Richard C.	1958	Middlesex	11/12/03	11/12/03
Tanski, Thadeus A.	1977	Bergen	01/28/03	01/28/03
Taylor, Sandra Renee	1990	Essex	04/24/03	04/24/03
Thakker, Jeff Edward	1995	Somerset	07/17/03	07/17/03
Torres, Jr., Raymond N.	1986	Essex	05/06/03	05/06/03
Tunney, John A.	1988	Middlesex	05/20/03	05/20/03
Uchendu, Vincent C.	1990	District of Columbia	09/04/03	09/04/03
Wade-Spearman, Sharon	1980	Essex	06/20/03	06/20/03
Winkler, Maury R.	1990	Essex	02/11/03	02/11/03
Witherspoon, David J.	1994	Essex	05/06/03	05/06/03
Wonski, Louann K.	1992	Middlesex	09/04/03	09/04/03
Wood, Cassell, Jr.	1974	Union	02/11/03	02/11/03
Wood, Lois Anne	1983	Mercer	03/25/03	03/25/03
Zamula, Elaine P.	1976	Ocean	05/06/03	05/06/03
Zimmermann, James C.	1991	Sussex	11/21/03	11/21/03
Zonies, Daniel B.	1979	Camden	01/14/03	01/14/03

### **ADMONITION (33)**

Anderson, Keith L.	1986	Massachusetts	02/04/03	02/04/03
Bolson, David A	1979	Essex	03/27/03	03/27/03
Brady, James D.	1981	Camden	09/26/03	09/26/03
Brennan, William J.	1987	Camden	05/23/03	05/23/03
Burden, James E.	1991	Mercer	04/24/03	04/24/03
Childress, Louis W., Jr.	1981	Essex	01/06/03	01/06/03
DeMartino, James E.	1979	Somerset	03/25/03	03/25/03
Edelstein, Jay	1991	Burlington	05/22/03	05/22/03
Fagan, Edward D.	1980	Essex	10/22/03	10/22/03
Ginsberg, Kenneth H.	1974	Florida	02/14/03	02/14/03
Gomez, Andrys S.	1992	Hudson	09/23/03	09/23/03
Karlstein, Ira S.	1977	Monmouth	05/23/03	05/23/03

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Kline, Kim Michelle	1985	Atlantic	09/10/03	09/10/03
Krassner, Mark	1985	Bergen	11/25/03	11/25/03
Landfield, Stephen D.	1984	Morris	07/03/03	07/03/03
LaRosa, Joseph J.	1993	Burlington	11/25/03	11/25/03
Larosiliere, Jean D.	1990	Essex	03/20/03	03/20/03
Lawrence, Tanya E.	1998	Hudson	04/24/03	04/24/03
Leonelli-Spina, Vincenzo	1990	Passaic	02/14/03	02/14/03
Levow, Evan M.	1991	Camden	06/20/03	06/20/03
Liebling, Scott A.	1989	Camden	09/17/03	09/17/03
Lopez, Juan A., Jr.	1985	Hudson	12/01/03	12/01/03
Machlin, Philip A.	1989	Middlesex	08/05/03	08/05/03
Mintz, Donald H.	1954	Essex	05/16/03	05/16/03
Monahan, Francis R., Jr.	1989	Hudson	07/03/03	07/03/03
Mulligan, Robert L.	1968	Bergen	06/03/03	06/03/03
Nelson, Chris A.	1980	Middlesex	07/03/03	07/03/03
Quinlan, Kevin S.	1993	Ocean	10/22/03	10/22/03
Rudenstein, David S.	1981	Camden	02/04/03	02/04/03
Spoganetz, John W.	1978	Middlesex	06/26/03	06/26/03
Toner, Terrance N.	1988	Middlesex	05/23/03	05/23/03
Van Syoc, Clifford	1980	Camden	04/24/03	04/24/03
Witherspoon, David J.	1994	Essex	10/24/03	10/24/03

**TOTAL FINAL DISCIPLINE.....(162)**

#### **INTERIM SUSPENSIONS (29)**

Avery, Diane S.	1981	Bergen	08/25/03	08/25/03
Beninson, Gary S.	1975	Ocean	05/14/03	05/14/03
Burrick, Robert S.	1993	Texas	01/14/03	01/14/03
Czapelski, Lester Walter	1992	Union	08/25/03	08/25/03
Czapelski, Marcia Lynne	1992	Union	11/12/03	11/12/03
DeMiro, Michael A.	1976	Essex	06/02/03	06/02/03
Dupre, Barbara H.	1980	Atlantic	03/04/03	03/04/03

<u>ATTORNEY</u>	<u>ADMITTED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Ellis, Daniel	1974	Essex	05/22/03	05/22/03
Flynn, Colin James	1989	Bergen	11/05/03	11/05/03
Gero, John	1968	Hudson	01/07/03	02/04/03
Gokhale, Vijay M.	1983	Middlesex	09/16/03	09/16/03
Jones, Thomas J.	1975	Essex	04/10/03	04/10/03
Kantor, Philip L.	1990	Gloucester	03/17/03	03/17/03
Kearns, Steven T.	1982	Bergen	07/17/03	07/17/03
Kirnan, Matthew James	1986	Essex	06/03/03	06/03/03
Lloyd, Vincent A.	1973	Florida	07/22/03	07/22/03
Lynch, Gerald M.	1977	Middlesex	10/08/03	10/08/03
Magnotti, Anthony M.	1991	New York	02/19/03	02/19/03
McClear, Nicholas W.	1973	Essex	12/10/03	12/10/03
Meyer, Allen J.	1983	Monmouth	12/23/03	12/23/03
Nash, II, William L.	1982	Essex	04/08/03	04/08/03
Petrocelli, Lucio A.	1987	Bergen	11/21/03	11/21/03
Prado, Rafael A.	1978	Hudson	11/22/03	11/22/03
Recchione, Louis J.	1980	Bergen	05/30/03	05/30/03
Sassano, Michael F.	1977	Bergen	09/30/03	09/30/03
Shannon, Kevin R.	1993	Atlantic	10/21/03	10/21/03
Simmons, Anthony J.	1989	Essex	03/21/03	03/21/03
Treffinger, James W.	1977	Warren	06/04/03	06/04/03
Young, George Guyer, III	1988	Pennsylvania	11/26/03	11/26/03

#### **TEMPORARY DISABILITY INACTIVE (2)**

Dinsmore, Charles B.	1988	Pennsylvania	05/23/03	05/23/03
Moran, Philip J.	1975	Somerset	09/04/03	09/04/03

**TOTAL TEMPORARY DISCIPLINE.....(31)**

## REINSTATEMENTS (16)

<u>ATTORNEY</u>	<u>SUSPENDED</u>	<u>LOCATION</u>	<u>DECIDED</u>	<u>EFFECTIVE</u>
Ahl, Michael S.	05/11/00	Bergen	06/25/03	06/25/03
Avrigian, Ara R.	03/24/03	Camden	10/23/03	10/23/03
Boccieri, Thomas E.	06/22/99	Bergen	09/23/03	09/23/03
Caruso, Joseph S.	02/08/00	Camden	03/20/03	03/20/03
DeLello, Jr., Salvatore	06/06/01	Middlesex	06/25/03	06/25/03
Ferraiolo, Donald M.	02/22/02	Bergen	06/25/03	06/25/03
Foushee, Jeffrey A.	03/08/96	Essex	08/15/03	08/15/03
Gillespie, James J., Jr.	04/10/00	Pennsylvania	03/20/03	03/20/03
Luvara, David F.	10/15/01	Pennsylvania	11/06/03	11/06/03
Lynch, Gerald M.	10/08/03	Middlesex	11/12/03	11/12/03
May, Isadore H.	12/14/01	Atlantic	04/23/03	04/23/03
McCue, James A.	09/19/02	Monmouth	03/25/03	03/25/03
Peck, James I., IV	10/25/01	Essex	12/03/03	12/03/03
Peterman, Roger C.	12/05/01	Bergen	02/20/03	02/20/03
Schuetz, Rolf C., Jr.	08/07/02	Passaic	11/25/03	11/25/03
Sonstein, Paul W.	10/05/02	Camden	01/07/03	01/07/03

**TOTAL REINSTATEMENTS.....(16)**

## STATISTICAL SUMMARY OF DISCIPLINE IMPOSED

**ALL FINAL DISCIPLINE.....162**

**ALL TEMPORARY DISCIPLINE ..... 31**

**ALL REINSTATEMENTS..... 16**

**STEVEN A. ADLER**

Admitted: 1973; New York City, New York

**Suspension 1 Year - 177 N.J. 605 (2003)**

Decided: 10/14/2003, Effective: 3/6/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who was suspended in the State of New York for one year based upon a guilty plea in Monticello Village Court, Sullivan County, New York, to the Class A misdemeanor of offering a false instrument for filing in the second degree, in violation of New York penal law, section 175.30. The effective date of the New York suspension was March 6, 2003.

**KEITH L. ANDERSON**

Admitted: 1986; Bellingham, MA

**Admonition - Unreported (2003)**

Decided: 2/4/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*John P. Jehl for District IV*

*Respondent appeared pro se*

The Disciplinary Review Board accepted a Motion for Discipline by Consent and held that an admonition was the appropriate discipline for an attorney who accepted \$1,000 to represent a client in a guardianship application. The attorney obtained the necessary medical certifications, but never completed the guardianship matter and closed his New Jersey office without finalizing it. The attorney also failed to keep the client properly informed about the status of the matter.

**LUBA ANNENKO**

Admitted: 1983; Cherry Hill (Camden County)

**Disbarment - 177 N.J. 567 (2003)**

Decided: 10/08/2003

*APPEARANCES BEFORE SUPREME COURT*

*Walton W. Kingsbery III for Attorney Ethics*

*Luba Annenko failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who committed serious unethical conduct in three separate matters. In one, she enlisted a disbarred attorney to help “fleece” a client out of a retainer intended to obtain a bail hearing for a woman’s incarcerated fiancé. The respondent abandoned the case and never visited the fiancé in jail, nor took any action to free him. Shortly after she was retained, respondent was suspended from the practice of law, but did not advise her client. In a second case, the respondent accepted a \$200 retention for a bankruptcy matter just days before her suspension became effective. She accepted another \$500 after she began serving the suspension and misrepresented to the client that she could not work on her case because of a broken toe. In the final matter, the respondent failed to appear at a bankruptcy court hearing, causing dismissal of the petition. Respondent then abandoned her client and also failed to obey the bankruptcy court order for a refund of the client’s retainer. She also converted \$1,000 in bankruptcy funds to her own use.

In its unreported decision, the Disciplinary Review Board concluded that “This respondent’s conduct has demonstrated that her professional character and fitness have been permanently and irretrievably lost. We, therefore, unanimously recommend that she be disbarred.”

The respondent had an extensive disciplinary history. In 1988, she was privately reprimanded for gross neglect in a contract matter, and failure to communicate with the client for approximately 18 months. In 1992, she received another private reprimand for failure to file an answer on her client’s behalf, resulting in a default judgment against the client. In 1999, she was temporarily suspended for failure to comply with a fee arbitration award and to satisfy a monetary sanction.

*In re Annenko*, 158 N.J. 184. The respondent was reinstated in July of 1999. The Supreme Court suspended respondent from the practice of law for a period of six months in 2000 as a result of gross neglect, pattern of neglect, lack of diligence, failure to communicate with the client, failure to return an unearned retainer, and failure to cooperate with disciplinary authorities. *In re Annenko*, 165 N.J. 508. In 2001, the respondent received a three-month consecutive suspension for gross neglect, lack of diligence, failure to communicate with the client and failure to cooperate with disciplinary authorities. *In re Annenko*, 166 N.J. 365. Later in 2001, the respondent was the recipient of a six month suspension for gross neglect, lack of diligence, failure to communicate, failure to return an unearned retainer and failure to cooperate with disciplinary authorities. *In re Annenko*, 167 N.J. 603.

**ARA R. AVRIGIAN**

Admitted: 1998; Cherry Hill (Camden County)

**Suspension 3 Months** - 175 N.J. 452 (2003)

Decided: 2/14/2003, Effective: 3/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was charged in the Superior Court of New Jersey, Criminal Division, Cape May County, with possession of a controlled, dangerous substance, namely, cocaine, contrary to the provisions of *N.J.S.A. 2C:35-10(a)(1)*, a crime of the third degree. Respondent was admitted into the Pretrial Intervention Program.

**CHARLES S. BARTOLETT**

Admitted: 1983; Margate (Atlantic County)

**Suspension 3 Months** – 176 N.J. 511 (2003)

Decided: 7/1/2003, Effective: 8/1/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Carl N. Tripician for District I*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected several matters for a client, engaged in a course of dual representation of a creditor and debtor, misrepresented the status of the client's matters to him, failed to turn over client files after he was discharged, and failed to maintain a bona fide office for the practice of law in the State of New Jersey. Additionally, respondent failed to cooperate with the disciplinary system during the investigation and prosecution of this matter.

**CHARLES S. BARTOLETT**

Admitted: 1983; Margate (Atlantic County)

**Suspension 3 Months** - 177 N.J. 504 (2003)

Decided: 9/4/2003, Effective: 11/1/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Carl N. Tripician for District I*

*Charles S. Bartoletta waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who improperly entered into a business relationship with a client, in violation of RPC 1.8(a), failed to adequately communicate with his client, failed to maintain a bona fide law office in accordance with R.1:21-1(a), and failed to cooperate with disciplinary authorities during the investigation of this matter.

The respondent was previously disciplined. He was suspended for three months, effective August 1, 2003, after he was found guilty of gross neglect, lack of diligence, failure to comply with a client's request for information, failure to explain a matter sufficiently to a client, conflict of interest, failure to turn over files to a client, failure to maintain a bona fide office, failure to cooperate with a disciplinary authority, misrepresentation to a client about the status of a matter, and conduct prejudicial to the administration of justice.

**EDWARD T. BASAMAN**

Admitted: 1991; West New York (Hudson County)

**Suspension 3 Months – 176 N.J. 517 (2003)**

Decided: 7/1/2003, Effective: 8/1/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Claire Marie Calinda for District IIIA*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected two client matters, in which he also made misrepresentations to the clients as to the status of the matters, and failed to communicate with a third client. The Disciplinary Review Board cited as an aggravating factor the respondent's "refuse(al) to acknowledge any wrongdoing in these matters."

**DAVID A. BOLSON**

Admitted: 1979; South Orange (Essex County)

**Admonition - Unreported (2003)**

Decided: 3/27/2003

*REPRESENTATION BEFORE REVIEW BOARD*

*Edward A. Jerejian for District VB*

*Respondent appeared pro se*

The Disciplinary Review Board granted a motion for admonition by consent in a case where an attorney engaged in the practice of law improperly for over four months after being declared ineligible to practice law due to his failure to file and pay the annual attorney registration assessment.

**CARL C. BOWMAN**

Admitted: 1962; Westville (Gloucester County)

**Suspension 6 Months - 175 N.J. 108 (2003)**

Decided: 1/14/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Mary C. Brennan for District IV*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who abandoned several client matters, engaged in gross neglect, lack of diligence, failure to communicate, failure to have a written fee agreement and who made misrepresentations to the Office of Attorney Ethics during its investigation of the matter.

**CARL C. BOWMAN**

Admitted: 1962; Westville (Gloucester County)

**Suspension 6 Months - 178 N.J. 24 (2003)**

Decided: 11/12/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who abandoned a client in the middle of litigation with no warning, thus engaging in unethical conduct, including gross neglect, lack of diligence, failure to communicate, failure to protect his client's interests after terminating the representation, misrepresentation to his client and to the tribunal and failure to cooperate with disciplinary authorities. The respondent has a disciplinary history. In 1971, he was privately reprimanded for lack of diligence in a divorce matter. In 2002, he was temporarily suspended from practicing law following his abandonment of his law practice. In 2003, he was suspended for



a period of six months for gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to provide a written fee agreement, failure to protect the clients' interests on termination of representation, making a false statement of fact in a disciplinary matter and misrepresentation, all arising out of his handling of three client matters.

**CARL C. BOWMAN**

Admitted: 1962; Westville (Gloucester County)

**Suspension 1 Year - 178 N.J. 25 (2003)**

Decided: 11/12/2003, Effective: 05/14/2004

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who abandoned four clients and grossly neglected those clients in addition to two others. The respondent was also found to have misrepresented the status in one of those matters and, in all cases, respondent failed to cooperate with disciplinary authorities during the investigation and processing of the matter.

The respondent has a disciplinary history. In 1971, he was privately reprimanded for lack of diligence in a divorce matter. In 2002, he was temporarily suspended from practicing law following his abandonment of his law practice. In 2003, he was suspended for a period of six months for gross neglect, pattern of neglect, lack of diligence, failure to communicate, failure to provide a written fee agreement, failure to protect the clients' interests on termination of representation, making a false statement of fact in a disciplinary matter and misrepresentation, all arising out of his handling of three client matters. In November 2003, he received another six-month suspension for abandoning a client in the middle of litigation with no warning, gross neglect, lack of diligence, failure to communicate, failure to protect his client's interests after terminating the representation, misrepresentation to his client and to the tribunal and failure to cooperate with disciplinary authorities.

**JAMES D. BRADY**

Admitted: 1981; Merchantville (Camden County)

**Admonition - Unreported (2003)**

Decided: 9/26/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Robert A. Porter for District IV*

*Maryann E. Murphy for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who received proceeds of a personal injury settlement in December 1999 and failed to disburse them as late as September 11, 2003. The respondent also failed to comply with the trust account recordkeeping requirements of *R.1:21-6*. In a second matter, the respondent failed to act with diligence and failed to properly withdraw from representation after his services were terminated by the client.

**SILVIA A. BRANDON-PEREZ**

Admitted: 1976; North Bergen (Hudson County)

**Suspension 3 Months – 177 N.J. 601 (2003)**

Decided: 9/30/2003, Effective: 10/27/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Rustine E. Tilton for District IIB*

*Gerald D. Miller for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected a product liability lawsuit and a malpractice action and failed to communicate with her clients.

The respondent has a significant disciplinary history. In 1993, she was suspended from the practice of law for a period of three months for chronic trust account recordkeeping violations. *In re Brandon-Perez*, 131 N.J. 454. In 1997, the respondent was suspended for a period of six months for misrepresenting, in an affidavit of title in her own real estate financing, her intended use of the proceeds from the mortgage loan. *In re Brandon-Perez*, 149 N.J. 25. She was reinstated to the practice of law on April 3, 1998.

**WILLIAM J. BRENNAN**

Admitted: 1987; Merchantville (Camden County)

**Admonition - Unreported (2003)**

Decided: 5/23/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Thomas J. Josse for District IV*

*Carl D. Poplar for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who represented a client in a criminal matter without providing him with a written fee agreement, as required by *RPC 1.5(b)*.

**ANTHONY C. BRUNEIO**

Admitted: 1991; Cherway, South Carolina

**Suspension 5 Years – 177 N.J. 603 (2003)**

Decided: 9/30/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that an attorney who was disbarred by consent in the Commonwealth of Pennsylvania should be suspended from the practice of law in New Jersey for a period of five years for misconduct in six client matters for gross neglect, lack of diligence, failure to communicate with clients, failure to appear at court hearings, engaging in a conflict of interest, entering into a custody stipulation without his client's knowledge or consent, issuing an improper subpoena, failing to protect his client's interests upon termination of the representation, failing to return unearned legal fees, failing to return his client's files and, ultimately, abandoning his clients.

**DAVID N. BUDA**

Admitted: 1981; Fort Lee (Bergen County)

**Disbarment by Consent - 178 N.J. 257 (2003)**

Decided: December 23, 2003

*REPRESENTATIONS*

*Michael J. Sweeney for Attorney Ethics*

*Gale B. Weinberg for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of trust funds. This matter was discovered solely as a result of the Random Audit Compliance Program.

**JAMES E. BURDEN**

Admitted: 1991; Trenton (Mercer County)

**Admonition - Unreported (2003)**

Decided: 4/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard B. Charny for District I*

*Steven K. Kudatzky for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to properly communicate to a client for a period of nine months that, although the clients had met with the law firm, the law firm had not yet accepted the case and had done no work on it.

**JOEL D. CANEY**

Admitted: 1980; Cherry Hill (Camden County)

**Disbarment - 176 N.J. 270 (2003)**

Decided: 5/20/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Joel D. Caney failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who had consented to disbarment in the Commonwealth of Pennsylvania after admitting that the material facts in two ethics complaints pending against him were true. Those complaints charged him with converting approximately \$44,000 in funds from an estate. The respondent had been temporarily suspended from the practice of law since November 1, 2002. *In re Caney*, 174 N.J. 406.

**PASQUALE J. CARDONE**

Admitted: 1976; Northfield (Atlantic County)

**Disbarment - 175 N.J. 155 (2003)**

Decided: 2/3/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to an Information charging him with income tax evasion, in violation of 26 U.S.C.A. 7201.

The respondent was previously disciplined. In 1999, he was suspended for three years for engaging in fraudulent conduct in three separate business transactions with a client. *In re Cardone*, 157 N.J. 23 (1999).

**SUSAN E. CARDULLO**

Admitted: 1996; Lincoln Park (Morris County)

**Reprimand - 175 N.J. 107 (2003)**

Decided: 1/14/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who pled guilty to assault by auto, in violation of N.J.S.A. 2C:12-1c(2), a crime of the fourth degree, as well as to the motor vehicle offenses of driving while intoxicated and leaving the scene of an accident. This was the respondent's third conviction for driving while intoxicated.

**KEVIN J. CARLIN**

Admitted: 1985; Princeton (Mercer County)

**Reprimand - 176 N.J. 266 (2003)**

Decided: 5/20/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics*

*Carl D. Poplar for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who exhibited gross neglect, as well as lack of diligence, and failed to communicate with one client; failed to properly deliver funds to a third person, failed to comply with two court orders, and engaged in conduct prejudicial to the administration of justice, and failed to comply with mandatory trust and business recordkeeping requirements in another client matter. Finally, in a third case, the respondent failed to promptly deliver funds to a third person.

**PATRICK M. CASEY**

Admitted: 1987; Ventnor (Atlantic County)  
**Suspension 3 Months - 176 N.J. 215 (2003)**  
Decided: 5/6/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Christine T.J. Tucker for District I*  
*Arthur J. Murray for Respondent*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who accepted a \$2,000 retainer from a divorce client to file an action and then grossly neglected the matter, failed to communicate with his client and failed to have a written fee agreement as required by court rules.

The respondent was previously suspended from the practice of law for a period of three months in 2001 for gross neglect, pattern of neglect, failure to communicate with a client, failure to expedite litigation, and pattern of misrepresentation. *In re Casey, 170 N.J. 6.*

**JAY J. CHATARPAUL**

Admitted: 1996; Woodhaven, New York  
**Reprimand - 175 N.J. 102 (2003)**  
Decided: 1/14/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who had been disciplined in the state of New York for improper conduct and failing to supervise employees concerning a fee dispute between the respondent and his client. In an effort to collect payment for the legal services rendered, letters were sent to the client implying that confidences and privileged information would be used against the client by the respondent unless payment was made.

**RUSSELL G. CHEEK**

Admitted: 1980; Toms River (Ocean County)  
**Suspension 3 Months – 178 N.J. 70 (2003)**  
Decided: 11/21/2003, Effective: 12/29/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Carmine Villani for District IIIA*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in three client matters, engaged in conduct involving gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to turn over client files, failure to reply to a lawful demand for information from a disciplinary authority, and misrepresentations. The respondent was previously disciplined. In 1996, he was admonished for recordkeeping violations and for failing to correct prior recordkeeping deficiencies discovered during a 1995 audit. He was reprimanded in 1999 for gross neglect, failure to communicate with a client, and recordkeeping violations. *In re Cheek, 162 N.J. 98.*

**LOUIS W. CHILDRESS, JR.**

Admitted: 1981; East Orange (Essex County)

**Admonition - Unreported (2003)**

Decided: 1/6/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Michael F. Quinn for District VA*

*Cassandra Savoy for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to provide a real estate client with a written fee agreement or to communicate the basis or rate of the fee in writing as required by *RPC 1.5 (b)*.

**DOUGLAS R. CLARK**

Admitted: 1968; Hamburg (Sussex County)

**Suspension 6 Months - 175 N.J. 553 (2003)**

Decided: 3/11/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Stuart M. Lederman for District X*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension for a period of six months was the appropriate discipline for an attorney who grossly neglected a client matter, engaged in a conflict of interest, engaged in a prohibited business transaction with a client and failed to cooperate with disciplinary authorities during the investigation of the matter.

**CHARLES D. CONWAY**

Admitted: 1976; Toms River (Ocean County)

**Disbarment by Consent - Unreported (2003)**

Decided: 5/20/2003

*REPRESENTATIONS*

*Brian D. Gillet for Attorney Ethics*

*Bernard F. Boglioli for respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of more than \$600,000 from a charitable foundation for which the respondent was the principal trustee and the president, and included offshore bank accounts in the British Virgin Islands. The respondent had been temporarily suspended from the practice of law since April 30, 2001. This case was discovered solely as a result of the Random Audit Compliance Program.

**MARIANO F.D. CRUZ**

Admitted: 1993; Tamuning, Guam

**Suspension 2 Years - 177 N.J. 518 (2003)**

Decided: 9/16/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Mariano Cruz appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of two years was the appropriate discipline for an attorney who was suspended from the practice of law in the State of South Carolina for two years, arising out of his abandonment of his law practice there and his mishandling of five client matters.

**MARK D. CUBBERLEY**

Admitted: 1984; Trenton (Mercer County)  
**Suspension 6 Months - 178 N.J. 103 (2003)**  
Decided: 11/21/2003, Effective: 12/09/2003

*APPEARANCES BEFORE SUPREME COURT*

*Brian D. Gillet for Attorney Ethics*  
*Robert E. Ramsey for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who accepted a \$2,000 retainer from a client and then failed to complete any work or to communicate with the client regarding the matter. The respondent has an extensive disciplinary history. In 1996, he received an admonition for failure to cooperate with a disciplinary investigation. In 2000, he was reprimanded for gross neglect in one case and lack of diligence and failure to communicate in two cases. *In re Cubberley, 164 N.J. 363*. Respondent was again reprimanded in 2000 for lack of diligence and failure to communicate in two matters and, in addition, a pattern of neglect. *In re Cubberley, 164 N.J. 532*. In 2001, respondent was temporarily suspended for failure to cooperate with the attorney designated to supervise his practice. Thereafter, he received a three-month suspension in 2002 for lack of diligence in one matter and failure to cooperate with an ethics investigation in a second case. *In re Cubberley, 171 N.J. 32*. Again in 2002, he received a six-month suspension for gross neglect in one matter, lack of diligence, failure to communicate with a client, failure to prepare written fee agreements in two matters, and a pattern of neglect.

**MARK D. CUBBERLEY**

Admitted: 1984; Trenton (Mercer County)  
**Suspension 3 Years - 178 N.J. 101 (2003)**  
Decided: 11/21/2003, Effective: 12/09/2003

*APPEARANCES BEFORE SUPREME COURT*

*Brian D. Gillet for Attorney Ethics*  
*Robert E. Ramsey for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who accepted a legal fee from a client while he was suspended from the practice of law and then falsely assured the client that his disciplinary problems would be resolved the following month. The respondent also failed to comply with R.1:20-20 after his suspension, which rule requires that he notify clients, courts and adversaries of his suspension. The respondent has an extensive disciplinary history. In 1996, he received an admonition for failure to cooperate with a disciplinary investigation. In 2000, he was reprimanded for gross neglect in one case and lack of diligence and failure to communicate in two cases. *In re Cubberley, 164 N.J. 363*. Respondent was again reprimanded in 2000 for lack of diligence and failure to communicate in two matters and, in addition, a pattern of neglect. *In re Cubberley, 164 N.J. 532*. In 2001, respondent was temporarily suspended for failure to cooperate with the attorney designated to supervise his practice. Thereafter, he received a three-month suspension in 2002 for lack of diligence in one matter and failure to cooperate with an ethics investigation in a second case. *In re Cubberley, 171 N.J. 32*. Again in 2002, he received a six-month suspension for gross neglect in one matter, lack of diligence, failure to communicate with a client, failure to prepare written fee agreements in two matters, and a pattern of neglect. In 2003, respondent was suspended for a period of six months for gross neglect, lack of diligence, failure to communicate and failure to cooperate with disciplinary authorities.

**JAMES T. DAVIS, II**

Admitted: 1984; Roseland (Essex County)  
**Disbarment - 175 N.J. 497 (2003)**  
Decided: 2/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*John J. Janasie, First Assistant, for Attorney Ethics*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that Disbarment was the appropriate discipline for an attorney who received a settlement check in the amount of



\$12,500, placed the check in his trust account and proceeded to knowingly misappropriate the funds by drawing a series of disbursements to himself and to “cash” and transferring funds to his business account to cover overdrafts. Respondent also engaged in the practice of law after being declared ineligible to do so by the Supreme Court. The respondent had previously been transferred to disability inactive status by Order dated May 20, 1997. *In re Davis*, 194 N.J. 345. That status was continued by Supreme Court Order dated October 28, 1997.

**JAMES S. DE BOSH**

Admitted: 1992; Phillipsburg (Warren County)

**Suspension 3 Months – 176 N.J. 418 (2003)**

Decided: 6/2/2003, Effective: 4/2/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Janice L. Richter for Attorney Ethics*

*James S. DeBosh, Pro Se*

The Supreme Court of New Jersey, on review of a motion for discipline by consent, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in a real estate matter, failed to discharge prior mortgages encumbering the property, failed to communicate with his client and failed to prepare a written retainer agreement. Respondent has a disciplinary history, which includes two reprimands and a three-month suspension.

**JAMES E. DeMARTINO**

Admitted: 1979; Hillsborough (Somerset County)

**Admonition – Unreported (2003)**

Decided: 3/25/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Israel D. Dubin for Advertising Committee*

*James E. DeMartino appeared pro se*

The Disciplinary Review Board accepted a Motion for Discipline by Consent by the Committee on Attorney Advertising and held that an admonition was the appropriate discipline for an attorney who distributed brochures to potential clients who attended an estate planning seminar given by the respondent. The brochures contained false and misleading statements concerning the benefits of living trusts and the dangers of probate.

**JON M. DeMASI**

Admitted: 1991; Cherry Hill (Camden County)

**Reprimand – 178 N.J. 72 (2003)**

Decided: 11/21/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who accepted a retainer fee to institute a name change proceeding and then took no action in the matter. He also failed to communicate with his client and with disciplinary authorities during the investigation and processing of the matter.

**DONALD B. DEVIN**

Admitted: 1969; Hackettstown (Warren County)

**Suspension 3 Months - 176 N.J. 269 (2003)**

Decided: 5/20/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Alan J. Strelzik for District X*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who failed to make reasonable efforts to communicate with a client, and failed to cooperate with disciplinary authorities during the investigation of the matter. The Court further ordered that the respondent not be reinstated until he cooperates fully with the Office of Attorney Ethics in connection with the investigation of this matter.

The respondent has a disciplinary history. In 1994, he was suspended for three months for failing to keep a client reasonably informed, making a misrepresentation to the client, and lying to a police officer. *In re Devin*, 138 N.J. 46. In June 1996, he was reprimanded for gross neglect, lack of diligence, failure to communicate with a client, failure to provide a written retainer agreement, failure to expedite litigation, misrepresentation about the status of the case, and failure to cooperate with ethics authorities. *In re Devin*, 144 N.J. 476. In 2002, he was reprimanded for failure to cooperate with disciplinary authorities. *In re Devin*, 172 N.J. 321. On that same date, he was temporarily suspended from practice for failure to cooperate with an investigation by the Office of Attorney Ethics. *In re Devin*, 172 N.J. 320.

**CHARLES A. DI FAZIO**

Admitted: 1987; Philadelphia (Pennsylvania)

**Suspension 5 Years - 177 N.J. 512 (2003)**

Decided: 9/4/2003, Effective: 8/21/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Charles A. DiFazio did not appear*

The Supreme Court of New Jersey held that a suspension for a period of 5 years was the appropriate discipline for an attorney who was disbarred in the Commonwealth of Pennsylvania for abandoning his clients in a series of ten matters, filing a frivolous lawsuit, knowingly making a false misstatement to a tribunal, knowingly making a false statement of material fact to a third person, engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and engaged in conduct prejudicial to the administration of justice. The respondent was disbarred in the Commonwealth of Pennsylvania on August 21, 2002.

**HOWARD M. DORIAN**

Admitted: 1978; Cliffside Park (Essex County)

**Reprimand - 176 N.J. 124 (2003)**

Decided: 4/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*James F. Keegan for District VB*

*Anthony P. Ambrosio for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who represented a client in an automobile injury action. The attorney and the client both signed a document granting the client's treating chiropractor a \$6,763 lien against the recovery. After settling the personal injury matter, the respondent disbursed the entire settlement to his client and himself, escrowing only \$1,250 for medical liens. Despite several inquiries by the treating chiropractor, the respondent paid only part of the \$6,763 due. The Court found that the respondent failed to promptly deliver funds to a third person and also that he failed to cooperate with disciplinary authorities during the investigation and processing of the matter.

The respondent was previously disciplined. In 1995, he was admonished for gross neglect, failure to communicate with a client, failure to withdraw as counsel, failure to promptly turn over his client's file to a new attorney, and failure to reply to requests for information from a disciplinary authority. In 2001, respondent was reprimanded for gross neglect, lack of diligence and failure to communicate with a client. *In re Dorian*, 166 N.J. 558.

**JAY EDELSTEIN**

Admitted: 1991; Marlton (Burlington County)

**Admonition - Unreported (2003)**

Decided: 5/22/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Leslie F. Gore for District IV*  
*Robert M. Agre for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who sent a letter to an individual soliciting professional employment without placing the word “advertisement” on the letter or observe the other requirements of RPC 7.3(b)(5).

**EDWARD D. FAGAN**

Admitted: 1980; Livingston (Essex County)  
**Admonition – Unreported (2003)**  
Decided: 10/22/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Beatrice E. Kandell for District VC*  
*Kim Ringler for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to adequately communicate with his client in a personal injury matter. Previously, the respondent had entered into an agreement for diversion, but failed to complete the agreed conditions.

**WILLIAM J. FARLEY, JR.**

Admitted: 1978; Manasquan (Monmouth County)  
**Disbarment by Consent – 176 N.J. 513 (2003)**  
Decided: 7/1/2003

*REPRESENTATIONS*

*Michael J. Sweeney for Attorney Ethics*  
*Peter H. Wegener for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent from an attorney who admitted that he could not successfully defend pending charges alleging the knowing misappropriation of over \$225,000 of client trust funds.

**YALE M. FISHMAN**

Admitted: 1991; Cranford (Union County)  
**Suspension 18 Months – 177 N.J. 600 (2003)**  
Decided: 9/30/2003, Effective: 8/30/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*  
*Kim D. Ringler waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of eighteen months was the appropriate discipline for an attorney who pled guilty to a one-count Information filed in the United States District Court for the Southern District of New York, charging him with Misprision of Felony, in violation of 18 U.S.C.A. 4. More specifically, the respondent helped certain individuals set up charitable trusts in an offshore jurisdiction, later learning that these trusts contained proceeds of securities fraud. Nevertheless, the respondent failed to report the criminal activity and acted to conceal the facts surrounding it. The respondent had been temporarily suspended from the practice of law in this state since August 30, 2002.

**STEVEN C. FORMAN**

Admitted: 1985; Cherry Hill (Camden County)  
**Reprimand - 178 N.J. 5 (2003)**  
Decided: 10/27/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who was suspended for one year in the Commonwealth of Pennsylvania for practicing law in that state while ineligible to practice by reason of his failure to pay his annual attorney registration from 1988 through 2000. Furthermore, respondent failed to comply with Pennsylvania's continuing legal education requirements.

**MARIA P. FORNARO**

Admitted: 1989; Morristown (Morris County)

**Suspension 3 Years - 175 N.J. 450 (2003)**

Decided: 2/20/2003

*APPEARANCES BEFORE REVIEW BOARD*

*John McGill, III for Attorney Ethics*

*Stephen Weinstein for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who lied to several judges, engaged in an unethical sexual relationship with a divorce client, thereby jeopardizing her client's position as the custodial parent, violated *R. 1:20-20* in recommending another attorney to complete a matter being handled by the respondent before a prior suspension, and using the title "Esquire" after her prior suspension.

As the Disciplinary Review Board also stated in its unreported decision:

"In addition, her behavior at the ethics hearing was abominable. She continually interrupted the presenter and other witnesses, accused her adversary of withholding discovery (despite four prehearing conferences in which discovery was either exchanged or discussed) and repeatedly referred to matters that were irrelevant to the ethics proceeding...

\*\*\*\*\*

Respondent's improper behavior and pattern of misrepresentation continued during her presentation to us. In her brief, although she did not file a motion to supplement the record, she repeatedly referred to matters outside of the record. At oral argument, she continued to refer to matters outside the record, even after she was instructed not to do so, in an effort to mislead us about the facts of the case."

The respondent has a disciplinary history. In 1998, she was suspended for three months, effective March 24, 1998, for various misconduct in four matters, including gross neglect, lack of diligence, failure to communicate with clients, failure to communicate the basis of the fee, failure to turn over the client's file upon termination of representation, false statement of material fact to a tribunal, failure to cooperate with disciplinary authorities, conduct involving dishonesty, fraud, deceit or misrepresentation, and false statements of material fact to disciplinary authorities. *In re Fornaro, 152 N.J. 449*. In 1999, she was reprimanded when, in one matter, she ignored her client's request for an accounting of services rendered and, in another matter, displayed lack of diligence. *In re Fornaro, 159 N.J. 525*. Again, in 1999, she was suspended for a period of two years, where, in two matters, she was guilty of gross neglect, lack of diligence, failure to communicate and failure to provide a fee agreement; in one of the matters, respondent also failed to protect the client's interests upon termination of the representation and exhibited a pattern of neglect; in the second matter, she also failed to cooperate with the ethics investigation. *In re Fornaro, 163 N. J. 88*.

**JUAN A. FRANCO**

Admitted: 1994; Roselle Park (Union County)

**Disbarment by Consent - 175 N.J. 69 (2003)**

Decided: 1/9/2003

*REPRESENTATIONS*

*Lee A. Gronikowski for Attorney Ethics*

*Sergio R. Pastor for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of client trust funds at various real estate closings.

**GARY S. FRIEDMANN**

Admitted: 1987; Moorestown (Burlington County)

**Suspension 3 Years - 175 N.J. 157 (2003)**

Decided: 2/3/2003, Effective: 3/1/2003

*APPEARANCES BEFORE SUPREME COURT*

*Michael J. Sweeney for Attorney Ethics*

*Carl D. Poplar for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who: 1) entered into an improper loan transaction with a client; 2) unilaterally changed the terms of the note, to the detriment of the client; 3) never gave the client a mortgage on the property securing the loan, as required by the note; 4) did not have his wife sign the note, even though she and the respondent owned the property jointly; 5) made misrepresentations concerning his fees and services in his communications to the client; 6) asserted a fraudulent counterclaim in the client's lawsuit for payment of the loan (the principal of which was \$150,000); and, 7) made misrepresentations to the Office of Attorney Ethics during the course of its investigation. This case was discovered solely as a result of the Random Audit Compliance Program.

**FRANCIS X. GAVIN**

Admitted: 1981; Hackettstown (Warren County)

**Suspension 3 Months - 176 N.J. 267 (2003)**

Decided: 5/20/2003, Effective: 12/19/2002

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Robert J. Foley for District XIII*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who failed to act diligently in representing clients, and failed to cooperate with disciplinary authorities during the investigation and processing of the matter.

The respondent has an extensive disciplinary history. In 1998, he received a reprimand for gross neglect, failure to act with diligence, and failure to communicate with a client. *In re Gavin, 153 N.J. 356*. In 2002, respondent was again reprimanded for gross neglect, lack of diligence, failure to communicate with a client, failure to refund an unearned fee, and failure to comply with reasonable requests for information from a disciplinary authority. *In re Gavin, 167 N.J. 606*. In 2002, respondent received a six-month suspension for lack of diligence, failure to communicate with a client, failure to surrender a client file on termination of the representation, failure to cooperate with disciplinary authorities, and conduct prejudicial to the administration of justice. *In re Gavin, 170 N.J. 597*. Again, in 2002, respondent received an additional three-month suspension for gross neglect, pattern of neglect, lack of diligence, failure to deliver promptly to clients or third persons property to which they are entitled, failure to cooperate with disciplinary authorities, and conduct prejudicial to the administration of justice. *In re Gavin, 172 N.J. 347*.

**LARRY S. GELLER**

Admitted: 1980; Maplewood (Essex County)

**Reprimand - 177 N.J. 505 (2003)**

Decided: 9/4/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*Larry S. Geller appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who engaged in numerous instances of unethical conduct, including discrimination arising out of his representation of himself in a divorce/custody litigation. The unreported Disciplinary Review Board decision concluded that the respondent violated ethics rules against discrimination and ethnic bias when, referring to one of the judge's rulings in the case, he remarked that "Monmouth County Irish have their own way of doing business." The respondent also engaged in bias and invective by alleging in various pleadings at the trial and appellate level that one of the judges handling his case favored his wife "because she was from Monmouth County and Catholic, while respondent was from Essex County and Jewish." He also referred to one of the judges as having "used this Jewish angle" and in motion papers rhetorically asked "What chance does a Jew from Essex County have in Monmouth County?" His allegations of bias against the judges were without factual foundation. The respondent also failed to treat others with courtesy and consideration during the litigation and made personal attacks against almost everyone involved in the matter, including two judges, his adversary and former girlfriend and her attorney, an unrelated litigant, and the court-appointed custody evaluator. The Disciplinary Review Board noted that the respondent's conduct during his deposition was "nothing short of appalling. His comments that (the) judges...were corrupt and that (one) judge ... was anti-Semitic were unwarranted and inexcusable."

**KENNETH H. GINSBERG**

Admitted: 1974; Naples, Florida

**Admonition - Unreported (2003)**

Decided: 2/14/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Laura A. Kelly for District X*

*Respondent appeared pro se*

The Disciplinary Review Board approved a motion for Discipline by Consent and held that an admonition was the appropriate sanction for an attorney who drafted a will for a client naming himself as the recipient of a bequest of \$10,000, in violation of *RPC 1.8(c)*. The respondent was previously reprimanded in 2002 for backdating estate planning documents prepared for a client in order to allow the client to take advantage of the tax provisions that might not otherwise have been available to them because of the proposed legislation.

**KENNETH N. GJURICH**

Admitted: 1985; Marlton (Burlington County)

**Reprimand - 177 N.J. 44 (2003)**

Decided: 7/10/2003

*APPEARANCES BEFORE REVIEW BOARD*

*John McGill III for Attorney Ethics*

*Respondent waived his appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who admitted that he engaged in conduct involving dishonesty, when he collected unemployment benefits from the State of New Jersey while employed as an attorney in a Pennsylvania law firm. The respondent had been charged in a two-count indictment with third-degree theft by deception, in violation of *N.J.S.A. 2C:20-4* and fourth-degree unsworn falsification to authorities, in violation of *N.J.S.A. 2C:28-3a*. The respondent was admitted to the Mercer County Pre-Trial Intervention Program for a period of three years, on condition that he pay almost \$11,000 in restitution to the Department of Labor and also pay a \$7,500 criminal fine and perform 50 hours of community service.

**ERIC J. GOLDRING**

Admitted: 1984; Lincroft (Monmouth County)

**Reprimand - 178 N.J. 26 (2003)**

Decided: 11/12/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Guy Ryan for District IIIA*

*Respondent appeared pro se*



The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who engaged in an improper ex parte communication with a judge, as well as conduct intended to disrupt a tribunal.

**ANDRYS S. GOMEZ**

Admitted: 1992; West New York ( Hudson County)

**Admonition - Unreported (2003)**

Decided: 9/23/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Michael H. Freeman for District VA*

*Steven Menaker for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who engaged in a conflict of interest when representing both the passengers and driver of a vehicle. Additionally, the respondent did little or no work on the matters and failed to communicate with his clients.

**ILLENE GREENBERG**

Admitted: 1986; Philadelphia, PA

**Suspension 3 Months - 175 N.J. 103 (2003)**

Decided: 1/14/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who engaged in the practice of law in New Jersey while she was declared ineligible to practice by the Supreme Court of New Jersey for failing to pay her Annual Attorney Registration fee. The respondent also misrepresented to a judge in a litigated matter her ability to practice in New Jersey. The respondent also failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

**JAY D. GREENGARTEN**

Admitted: 1973; East Brunswick (Middlesex County)

**Disbarment by Consent – 177 N.J. 362 (2003)**

Decided: 8/5/2003

*REPRESENTATIONS*

*Brian D. Gillet for Attorney Ethics*

*Dennis A. Estis for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of a respondent who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of client trust funds.

**RICHARD L. GRUBER**

Admitted: 1977; Newark (Essex County)

**Disbarment – 177 N.J. 523 (2003)**

Decided: 9/23/2003

*APPEARANCES BEFORE SUPREME COURT*

*Walton W. Kingsbery, III for District VA*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated at least \$33,800 in escrow funds, which he used for his personal benefit. The respondent had been temporarily suspended from the practice of law in New Jersey since May 20, 2002. *In re Gruber*, 172 N.J. 237. On February 24, 1998, respondent received a

reprimand for gross neglect, lack of diligence, failure to communicate with the client and failure to cooperate with disciplinary authorities. *In re Gruber*, 152 N.J. 451.

**RUPERT A. HALL, JR.**

Admitted: 1983; Moorestown (Burlington County)

**Reprimand – 176 N.J. 515 (2003)**

Decided: 7/1/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Jeffrey Appell for District IIIB*

*Mark J. Molz for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected a client matter, allowing the complaint to be dismissed and then committed a misrepresentation by not informing the client of the dismissal.

**THOMAS Q. HARRIGAN**

Admitted: 1983; Turnersville (Gloucester County)

**Suspension 6 Months - 177 N.J. 607 (2003)**

Decided: 10/14/2003, Effective: 12/25/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who had been suspended for a year and a day in the Commonwealth of Pennsylvania for practicing while on the Ineligible List for failure to pay his annual registration statement, making misrepresentations, conduct prejudicial to the administration of justice, and making false or misleading communications about himself or his services.

**STANLEY J. HAUSMAN**

Admitted: 1970; Caldwell (Essex County)

**Suspension 5 Years – 177 N.J. 602 (2003)**

Decided: 9/30/2003, Effective: 2/10/1999

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*John P. Lacey for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of five years was the appropriate discipline for an attorney who pled guilty to four counts of a federal Information in the United States District Court for the District of New Jersey, charging him with structuring monetary transactions to avoid reporting requirements, in violation of 31 U.S.C. 5313(a), 31 U.S.C. 5322(b), 31 U.S.C. 5324(a)(3), and 18 U.S.C. 2. The respondent had been temporarily suspended from the practice of law in New Jersey since February 9, 1999, following his guilty plea. *In re Hausman*, 157 N.J. 158.

**CHARLES T. HUTCHINS**

Admitted: 1998; Farmingdale (Monmouth County)

**Reprimand – 177 N.J. 520 (2003)**

Decided: 9/16/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Margaret M. Marley for District VI*

*Elizabeth H. Smith for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in speaking to a debtor on behalf of a creditor-client, advised her that he had no alternative but to recommend to his client that criminal and civil remedies be pursued.

**CYNTHIA DENISE JACKSON**

Admitted: 1987; Jersey City (Hudson County)

**Reprimand - 176 N.J. 479 (2003)**

Decided: 6/20/2003

*APPEARANCES BEFORE SUPREME COURT*

*Brian D. Gillet for Attorney Ethics*

*Gerald D. Miller for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected two client matters and failed to communicate with those clients. The respondent also improperly contacted the adversary-client in a domestic violence matter when that client was represented by counsel.

**KENNETH L. JOHNATHAN, JR.**

Admitted: 1985; Neptune Township (Monmouth)

**Reprimand - 178 N.J. 3 (2003)**

Decided: 10/27/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Ambar I. Abelar for District IX*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who failed to represent a client diligently in an automobile accident case resulting in the dismissal of that matter and who failed to reasonably communicate with his client concerning the status of the matter.

**THOMAS J. JONES**

Admitted: 1975; South Orange (Essex County)

**Disbarment by Consent - 177 N.J. 248 (2003)**

Decided: 7/24/2003

*REPRESENTATIONS*

*John McGill III for Attorney Ethics*

*Thomas J. DeGroot for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of real estate settlement proceeds. The respondent had been temporarily suspended from the practice of law since April 10, 2003. *In re Jones, 176 N.J. 47.*

**ARNOLD I. KALMAN**

Admitted: Pro Hac Vice; Philadelphia (Pennsylvania)

**Suspension 1 Year - 177 N.J. 608 (2003)**

Decided: 10/14/2003

*APPEARANCES BEFORE REVIEW BOARD*

*John A. Jones for District IV*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the right to appear pro hac vice in New Jersey courts for a period of one year was the appropriate discipline for an attorney who engaged in business litigation for one client in Pennsylvania, while representing another client in related litigation in New Jersey. Both courts found that the

respondent withheld certain documents from his adversary and the court. Additionally, the New Jersey court ruled that respondent's failure to correct his client's false pleadings was improper and both courts sanctioned the respondent. The respondent also engaged in a conflict of interest and accepted compensation for representing a client from one other than the client.

**PHILIP L. KANTOR**

Admitted: 1990; Williamstown (Gloucester County)

**Suspension 3 Months – 178 N.J. 69 (2003)**

Decided: 11/21/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was retained to pursue an appeal in a personal injury matter. The respondent failed to file a brief, however, and the appeal was dismissed. The respondent also failed to communicate with the client and failed to communicate the basis or rate of the fee in writing, as required by court rules. Finally, respondent failed to cooperate with disciplinary authorities during the investigation and processing of this matter. The respondent has a disciplinary history. In 2000, he was reprimanded for making a false statement of material fact or law to a tribunal, offering evidence he knew to be false and misrepresentation. *In re Kantor, 165 N.J. 572*. In 2003, the respondent was temporarily suspended following his apparent abandonment of his law practice. *In re Kantor, 175 N.J. 555*.

**IRA S. KARLSTEIN**

Admitted: 1977; Manalapan (Monmouth County)

**Admonition – Unreported (2003)**

Decided: 5/23/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Samuel D. Conti for Committee on Attorney Advertising*

*Ira S. Karlstein, Pro Se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who held a "living trust" seminar and distributed printed materials to attendees that contained false and misleading statements concerning the benefits of living trusts and the dangers of probate.

**JAMES W. KENNEDY**

Admitted: 1983; Toms River (Ocean County)

**Suspension 6 Months – 177 N.J. 517 (2003)**

Decided: 9/16/2003, Effective: 10/13/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*David H. Dugan III for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who pled guilty in the Superior Court of New Jersey, Law Division, to one count of the fourth-degree crime of endangering the welfare of a child, in violation of *N.J.S.A. 2C:24-4(b)(5)(b)*. The respondent's conviction involved his admission that he (1) had downloaded from the Internet images of children engaged in sexual acts; and (2) of the 20,000–30,000 pornographic images that he maintained on his computer, several hundred depicted children below the age of 16 engaged in sexual acts.

**MICHAEL H. KESSLER**

Admitted: 1969; Union (Union County)

**Reprimand – 178 N.J. 71 (2003)**

Decided: 11/21/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who commingled funds in the trust account by failing to promptly withdraw earned legal fees to his business account, failing to maintain proper records as required by R.1:21-6 and failing to cooperate with disciplinary authorities during the investigation of this matter. The respondent has a disciplinary history. In 1993, he was privately reprimanded for failure to prepare his client's will, failure to communicate with her, and failure to reply to disciplinary authorities' request for information about the matter. In 1999, he was publicly reprimanded for failure to communicate with a client, failure to safeguard client funds, recordkeeping violations and misrepresentation. *In re Kessler, 157 N.J. 73*. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**KIM MICHELLE KLINE**

Admitted: 1985; Margate (Atlantic County)

**Admonition – Unreported (2003)**

Decided: 9/10/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Carl N. Tripician for District I*

*Respondent acted pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who represented various clients without having a bona fide law office in the State of New Jersey. Additionally, she failed to reply to the ethics investigator's inquiries about the grievance.

**THEODORE F. KOZLOWSKI**

Admitted: 1978; Morristown (Morris County)

**Reprimand – 178 N.J. 3 (2003)**

Decided: 10/27/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Margaret A. Kerr for District X*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who engaged in the practice of law for a period of one year after he was declared ineligible to practice law by reason of his failure to pay the annual attorney registration assessment. The respondent was previously disciplined. In 1992, he was privately reprimanded for lack of diligence and lack of cooperation with disciplinary authorities. In 1998, respondent received an admonition for lack of diligence and failure to communicate with the client in two matters.

**MARK KRASSNER**

Admitted: 1985; Washington Township (Bergen County)

**Admonition - Unreported (2003)**

Decided: 11/25/2003

*APPEARANCES BEFORE REVIEW BOARD*

*George L. Caceres for District VB*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who grossly neglected a client's matrimonial matter and allowed a judgment of divorce to be entered against her. The respondent also failed to communicate with his client.

**RICHARD H. KRESS**

Admitted: 1979; Clark (Union County)

**Suspension 1 Year - 177 N.J. 226 (2003)**

Decided: 7/10/2003, Effective: 8/11/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Stephen F. Hehl for District XII*

*John P. McDonald for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who engaged in a conflict of interest by representing an accounting firm as well as the individual partners after an actual conflict developed between the parties' interests. The respondent also attempted to create a sham transaction to deceive a third party that a mortgage had been assigned for bona fide consideration, when it had not. Finally, the respondent made misrepresentations to parties to the transaction.

The respondent has a disciplinary history. In 1992, he was suspended for three months when, as municipal court prosecutor, he failed to disclose to the municipal court judge the circumstances surrounding the dismissal of a drunk-driving case. *In re Kress*, 128 N.J. 520. He was also reprimanded in 1996 for failure to timely file a reply to a motion for pendente lite support, and to timely file a motion for reconsideration, as well as failing to keep his clients informed of the status of the matter. *In re Kress*, 143 N.J. 334.

**STEPHEN D. LANDFIELD**

Admitted: 1984; Morris Plains (Morris County)

**Admonition –Unreported (2003)**

Decided: 7/3/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Vivian Demas for District X*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to properly withdraw from a divorce matter after being terminated by the client. Specifically, the attorney did not provide an accounting of services and return the unused portion of the client's retainer.

**JOSEPH J. LaROSA**

Admitted: 1993; Marlton (Burlington County)

**Admonition - Unreported (2003)**

Decided: 11/25/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Brian M. Guest for District IIIB*

*Joel B. Korin for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who improperly engaged in a brief discussion with jurors after the conclusion of a civil matter in which the attorney was involved. Such contact violated *R.1:16-1* and *RPC 3.5(b)*.

**JEAN D. LAROSILIERE**

Admitted: 1990; Newark (Essex County)

**Admonition - Unreported (2003)**

Decided: 3/20/2003

*APPEARANCES BEFORE REVIEW BOARD*

*David H. Stein for District VA Ethics Committee*

*Pamela C. Mandel for respondent*



The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to act with diligence and failed to keep a client reasonably informed about the status of a medical malpractice matter. Furthermore, the respondent allowed the name of a non-attorney to appear on his letterhead indicating that he was a licensed lawyer, and also allowed a lawyer licensed in California to sign several letters on the firm's letterhead with his designation "Esq." after the attorney's name.

**TANYA LAWRENCE**

Admitted: 1998; Brooklyn, New York

**Admonition - Unreported (2003)**

Decided: 4/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Maryjane E. Brown for District VI*

*Kim D. Ringler for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who improperly engaged in the practice of law in New Jersey by filing a motion with a court seeking to restore a case dismissed for lack of prosecution. When the motion was filed, the respondent had been declared ineligible to practice law in this state by the Supreme Court by reason of her failure to pay the annual attorney registration fee.

**RAYMOND T. LE BON**

Admitted: 1979; Westmont (Camden County)

**Disbarment - 177 N.J. 515 (2003)**

Decided: 9/9/2003

*APPEARANCES BEFORE SUPREME COURT*

*Lee A. Gronikowski for Attorney Ethics*

*Stephen B. Sacharow for respondent*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated almost \$5,900 in legal fees due to the law firm with which he was associated.

**VINCENZA LEONELLI-SPINA**

Admitted: 1990; Totowa (Passaic County)

**Admonition - Unreported (2003)**

Decided: 2/14/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Diane M. Dewey for District XI*

*Respondent appeared pro se*

The Disciplinary Review Board accepted a motion for Discipline by Consent and held that an admonition was the appropriate sanction for an attorney who was retained by a group of 11 police officers to pursue a lawsuit objecting to a promotional examination administered by a municipality. After the municipality was granted summary judgment, the respondent exhibited gross negligence by not filing an appellate brief on two separate occasions. Also, the respondent failed to reply to his client's telephone calls and correspondence.

**EVAN M. LEVOW**

Admitted: 1991; Cherry Hill (Camden County)

**Admonition - 176 N.J. 505 (2003)**

Decided: 6/20/2003

*APPEARANCES BEFORE REVIEW BOARD*

*John Morelli for District IV*

*Carl D. Poplar for respondent*

The Supreme Court of New Jersey held that an admonition was the appropriate discipline for an attorney who, in representing a client in a personal injury matter arising out of an assault, wrote a letter to the defendant seeking \$3.5 million in settlement of the claim and stating that the issues in the case included, not only the tort matter, but also “criminal assault.”

**SCOTT A. LIEBLING**

Admitted: 1989; Cherry Hill (Camden County)

**Admonition - Unreported (2003)**

Decided: 9/17/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to maintain his trust account records as required by R.1:21-6, in that he failed to perform quarterly reconciliations, his client ledgers lacked detail, the account designation on trust account checks was incomplete and the attorney had inactive client balances in his trust account for extended periods of time.

**JUAN A. LOPEZ, JR.**

Admitted: 1985; Jersey City (Hudson County)

**Admonition - Unreported (2003)**

Decided: 12/01/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Cataldo F. Fazio for District VI*

*Respondent appeared pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who, from September 2000 through June 2001 practiced law in New Jersey despite being declared ineligible to do so by the Supreme Court for failure to pay the annual attorney registration fee.

**MELINDA LOWELL**

Admitted: 1981; Hackensack (Bergen County)

**Suspension 3 Years – 178 N.J. 111 (2003)**

Decided: 11/21/2003, Effective: 05/30/2002

*APPEARANCES BEFORE SUPREME COURT*

*Lee A. Gronikowski for Attorney Ethics*

*Robert J. Del Tufo for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years, in view of significant mitigating circumstances, was the appropriate discipline for an attorney who represented a client in a matrimonial matter and created fraudulent documents, counseled her client to lie on a certification and to disobey a court order, had an employee work on a client’s case after the client had terminated the respondent’s services, elicited false testimony from a witness during a trial, made misrepresentations to clients, the court and third parties, and failed to notify her adversary of the submission of an order and of an insertion made to a stipulation. The respondent had been temporarily suspended from the practice of law since May 30, 2002.

**PHILIP A. MACHLIN**

Admitted: 1989; Iselin (Middlesex County)

**Admonition - Unreported (2003)**

Decided: 8/5/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Cheryl M. Spilka for District VIII*

*David B. Rubin for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who represented a client in a claim for property damage to his condominium, but failed to reply to the client's reasonable requests for information about the status of his matter. Additionally, the respondent failed to cooperate with the District Ethics Committee during the investigation and hearing in this matter.

**JOSEPH A. MAFFONGELLI**

Admitted: 1969; Montclair (Essex County)

**Suspension 1 Year – 176 N.J. 514 (2003)**

Decided: 7/1/2003, Effective: 8/1/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Sherilyn Pastor for District VA*

*John C. Whipple for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who engaged in gross neglect in ten separate client matters. Additionally, the respondent was guilty of unethical conduct in respect to his dealings with various courts. He displayed a pattern of inability, unwillingness and, at times, refusal to follow the court rules. Instead of preparing formal pleadings, he began to submit handwritten documents to the court, often scrawled, either on court-generated notices or on his adversary's moving papers. He also submitted answers to interrogatories in handwritten form. The respondent continued to send the same improper documents to the courts, even after receiving clear instructions not to do so. In addition, respondent failed, and sometimes refused, to appear at hearings where his presence was required. He displayed arrogance and defiance of both the court rules in general and judges' instructions that had been directed to him individually, showed a woeful lack of familiarity with court rules and practices, and refused to observe the dignity of court proceedings.

**MICHAEL MAGNOLA**

Admitted: 1976; Westfield (Union County)

**Disbarment – 175 N.J. 534 (2003)**

Decided: 3/4/2003

*APPEARANCES BEFORE SUPREME COURT*

*John J. Janasie for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who knowingly misappropriated in excess of \$53,000 of estate funds from his attorney trust account. The respondent had been temporarily suspended from the practice of law since May 7, 2001 for failure to comply with a fee arbitration determination. *In re Magnola, 167 N.J. 68.*

**SAMUEL A. MALAT**

Admitted: 1989; Haddon Heights (Camden County)

**Suspension 3 Months – 175 N.J. 554 (2003)**

Decided: 3/11/2003, Effective: 4/7/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who engaged in misrepresentations and conduct prejudicial to the administration of justice by making written misrepresentations to a court, as well as failing to disclose to the court the existence of a pending motion before another judge.

The respondent was previously disciplined. In 2002, he was reprimanded for failing to act diligently, failing to communicate properly with a client and failing to turn over client files on termination of the representation. He also knowingly disobeyed an obligation owed to a court and failed to cooperate with disciplinary authorities during the processing of that matter.

**SAMUEL A. MALAT**

Admitted: 1989; Haddon Heights (Camden County)

**Suspension 3 Months -177 N.J. 506 (2003)**

Decided: 9/4/2003, Effective: 7/7/2003

*APPEARANCES BEFORE REVIEW BOARD*

*James Herman for District IV*

*Alan Dexter Bowman for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who received compensation from a living trust vendor and improperly shared fees, while assisting the vendor/non-lawyer in the unauthorized practice of law.

The respondent has a disciplinary history. He was reprimanded in 2002 for conduct in four matters, including disobeying court orders, being found in contempt, advising a client to file bankruptcy and then intentionally not filing the required schedules for the purpose of avoiding a levy, allowing a client's lawsuit to be dismissed twice, refusing to return the file to the client, and allowing a judgment to be entered against the client. In 2003, the respondent was suspended for three months for knowingly making a false statement of material fact or law to a tribunal, knowingly failing to disclose to a tribunal a material fact, conduct involving dishonesty, fraud, deceit, or misrepresentation, conduct prejudicial to the administration of justice, and failure to cooperate with disciplinary authorities.

**ANDREW G. MALONEY**

Admitted: 1988; White Plains, New York

**Disbarment by Consent - 177 N.J. 522 (2003)**

Decided: 9/23/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*William T. Martin for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of an attorney while the matter was pending oral argument before the Supreme Court. The basis for the action was the respondent's disbarment in the State of New York for knowing misappropriation of clients' trust funds in eighteen separate matters, in addition to other violations.

**ARTHUR N. MARTIN, JR.**

Admitted: 1973; Newark (Essex County)

**Disbarment - 176 N.J. 518 (2003)**

Decided: 6/27/2003

*APPEARANCES BEFORE SUPREME COURT*

*Walton W. Kingsbery, III for Attorney Ethics*

*Alan Dexter Bowman for Respondent*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who was the subject of four separate recommendations for discipline recommending a one-year suspension, a three-year suspension, and two separate recommendations for disbarment. The Board's decision covered 19 separate findings of unethical conduct. The first Board decision was issued on September 30, 1997.

The misconduct included multiple violations of gross neglect, lack of diligence, failure to keep a client reasonably informed and failure to respond to reasonable requests for information, charging an unreasonable fee, failing to communicate the basis or rate of fee to a client, failure to cooperate with disciplinary authorities and conduct involving dishonesty, fraud, deceit or misrepresentation. The respondent had been temporarily suspended from the practice of law since July 1, 1998.

The respondent had an extensive disciplinary history. In 1990, he was suspended for six months for grossly neglecting seven cases, negotiating settlements without the clients' authorization, advancing money to clients for personal expenses and displaying a gun during meetings with clients. *In re Martin*, 118 N.J. 239. He was suspended for three

months in 1991 for failure to return an unearned portion of a retainer after the case was dismissed, failure to pursue an appeal, failure to adequately communicate with clients in three matters, and failure to reply to requests for information by a district ethics committee investigator. That suspension was to run consecutively to the suspension imposed in 1990. *In re Martin*, 122 N.J. 198.

In 1993, the respondent was publicly reprimanded for unethical conduct in three matters, which involved violations of gross neglect, lack of diligence, lack of communication, and conduct involving misrepresentation. *In re Martin*, 132 N.J. 261. In 1998, the respondent consented to being temporarily suspended from the practice of law, pending the final determination of all grievances against him. As a result, the Disciplinary Review Board issued four separate recommendations for discipline, which were heard together before the Supreme Court in 2003. During the course of the Court's receipt of the Board's four decisions, the respondent filed a motion with the Supreme Court to supplement the record. In 1999, the Court directed that the matters, including the motion to supplement the record, be remanded to a special ethics master. After extensive hearings, the special master recommended to the Supreme Court that respondent be disbarred.

In its final recommendation for disbarment in 2000, the Disciplinary Review Board summed up respondent's transgressions in the four matters it considered since 1997 as follows:

Respondent has shown, in thirty-five separate cases, that he is unable—or unwilling—to competently represent clients. Furthermore, respondent has shown that he has little regard for the attorney disciplinary system. He has either completely ignored ethics complaints and allowed defaults to be entered against him, or he has attempted to file answers to the complaints after the defaults have already been transmitted to us—despite prior timely notice of the complaints.

**LARRY J. McCLURE**

Admitted: 1971; Hackensack (Bergen County)

**Suspension 6 Months - 176 N.J. 121 (2003)**

Decided: 4/24/2003, Effective: 5/21/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Glenn R. Reiser for District IIB*

*Raymond F. Flood for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who, in the case of a criminal client, accepted retainers and then grossly neglected the matter, failed to reasonably communicate with the client, failed to act diligently, failed to expedite litigation and failed to communicate, in writing, the basis or rate of the fee. In another civil matter, the respondent engaged in a lack of diligence, failed to communicate with a client, failed to keep the client reasonably informed about the status of the matter, failed to communicate, in writing, the basis or rate of the fee, and made a misrepresentation to the client by failing to tell him about the dismissal of his case.

In 1999, the respondent received an admonition for similar misconduct, absent misrepresentation.

**WILLIAM P. MIKITA, JR.**

Admitted: 1994; Woodbridge (Middlesex County)

**Reprimand - 177 N.J. 563 (2003)**

Decided: 9/30/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*James P. Nolan for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, while representing a personal injury client, utilized an improper power of attorney, failed to timely send a settlement disbursement sheet to his client, improperly notarized his client's signature and failed to ensure that his secretary's conduct was compatible with his professional obligations.

**VINCENT J. MILITA, II**  
Admitted: 1980; Marmora (Cape May County)  
**Reprimand – 177 N.J. 1 (2003)**  
Decided: 7/9/2003

*APPEARANCES BEFORE SUPREME COURT*  
*Janet Brownlee Miller for Attorney Ethics*  
*Vincent J. Milita, II appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who represented a client who entered a guilty plea to criminal restraint. Prior to sentencing, respondent sent a letter to the complaining witness in the criminal matter that was snide, sarcastic, and demeaning and had no legitimate purpose other than to embarrass and to repeatedly insult the witness.

The respondent was previously disciplined. In 1985, he was suspended for six months for unethical conduct at a criminal pretrial negotiation and for conduct involving deceit and misrepresentation, in his attempt to obtain information to assist a client. *In re Milita, 99 N.J. 336.*

**THOMAS F. MILITANO**  
Admitted: 1991; Newton (Sussex County)  
**Reprimand - 176 N.J. 265 (2003)**  
Decided: 5/20/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*James M. DeMarzo for District X*  
*Thomas Militano waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to maintain a bona fide law office for the practice of law, as required by the Supreme Court, while representing a client in an appeal of a municipal court conviction. He also failed to cooperate with disciplinary authorities during the investigation of this matter.

The respondent was previously disciplined in 2001, when he received a reprimand for failing to advise a client that the assistance requested of him was not permitted by ethics rules, making a misrepresentation, and failing to cooperate with disciplinary authorities. *In re Militano, 166 N.J. 367.*

**DONALD H. MINTZ**  
Admitted: 1954; East Orange (Essex County)  
**Admonition - Unreported (2003)**  
Decided: 5/16/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*  
*Jeffrey Campisi for District VC*  
*Donald H. Mintz, Pro Se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to act diligently while representing a client trying to obtain guardianship of her disabled adult foster child.

**STEVEN E. MIRSKY**  
Admitted: 1977; Rockville, Maryland  
**Reprimand – 176 N.J. 421 (2003)**  
Decided: 6/3/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Richard J. Engelhardt for Attorney Ethics*  
*Steven E. Mirsky waived appearance*



The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who was suspended for a period of three months in the State of Maryland as a result of his lack of diligence, failure to communicate with a client, commingling of personal and trust funds, and negligent misappropriation of client trust funds, in addition to his failure to place unearned retainers in his attorney trust account.

**G. JEFFREY MOELLER**

Admitted: 1978; Newark (Essex County)

**Suspension 1 Year - 177 N.J. 511 (2003)**

Decided: 9/4/2003, Effective: 10/4/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Christine D. Petruzzell for Committee on*

*Attorney Advertising*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of 1 year was the appropriate discipline for an attorney who rendered legal services to a corporation involved in providing living trusts to clients, thus assisting in the unauthorized practice of law, engaging in conflicts of interest, accepting compensation from one other than the client, failing to reasonably explain matters to his clients, compensating others for securing clients for him, making misrepresentations to the Committee on Attorney Advertising and for false and misleading advertising in connection with the living trusts.

**MICHAEL G. MOLI**

Admitted: 1980; Clark (Union County)

**Disbarment by Consent – Unreported (2003)**

Decided: October 1, 2003

*REPRESENTATIONS*

*Brian D. Gillet for Attorney Ethics*

*Julian Wilsey for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of an attorney who admitted that he could not successfully defend four pending investigations alleging the knowing misappropriation of clients' trust funds in the approximate amount of \$500,000. The respondent had been temporarily suspended from the practice of law since August 16, 2002.

**FRANCIS R. MONAHAN, JR.**

Admitted: 1989; Jersey City (Hudson County)

**Admonition -Unreported (2003)**

Decided: 7/3/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Mark J. Keane for District VI*

*Frank Babcock for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was retained to represent a client in an immigration matter. During the course of that representation, the attorney did not adequately communicate with the client about the status of her case. In a second matter, a client hired the attorney to secure post-conviction relief in a criminal matter and failed to adequately communicate with him. During the course of the disciplinary case, it was determined that the respondent did not regularly answer clients' telephone calls.

**PATRICK J. MOORE**

Admitted: 1989; Runnemede (Camden County)

**Suspension 12 Months - 175 N.J. 100 (2003)**

Decided: 1/14/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Walton W. Kingsbery, III for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who improperly released escrow funds to his client, a party to the escrow agreement. The respondent also misrepresented the status of the escrow to the other party to the agreement and to that party's counsel and to the Office of Attorney Ethics. Furthermore, the respondent failed to cooperate with the Office of Attorney Ethics during its investigation and processing of this matter.

**ELLIOTT D. MOORMAN**  
Admitted: 1977; East Orange (Essex County)  
**Suspension 3 Months - 175 N.J. 154 (2003)**  
Decided: 1/28/2003, Effective: 2/28/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Denzil R. Dunkley for District VB*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who engaged in conduct prejudicial to the administration of justice by filing a grievance with the Advisory Committee on Judicial Conduct and then abandoning the grievance and failing to cooperate with the committee during the investigation. The Board found that the opening of the grievance against a judge was a threat designed to obtain a desired result in violation of *RPC 8.4(d)*. In a second matter, respondent engaged in a conflict of interest by representing the seller of the property and then subsequently representing the purchaser in attempts to resolve title problems. Respondent also violated an escrow agreement by disbursing \$500 to the seller without obtaining the purchaser's authorization and consent. He also failed to obtain the purchaser's authorization to the removal of his legal fee and failed to have a written fee agreement with his client.

The respondent has a history of discipline. In 1990, he was publicly reprimanded for failing to maintain proper time records and to preserve the identity of client funds. *In re Moorman, 118 N.J. 422*. In 1994, respondent was suspended for three months for gross neglect, lack of diligence, and failure to keep a client informed. *In re Moorman, 135 N.J. 1*. Finally, in 1999, he received another reprimand for lack of diligence, failure to provide a written agreement, failure to comply with bookkeeping requirements and failure to cooperate with disciplinary authorities. *In re Moorman, 159 N.J. 523*.

**ELLIOTT D. MOORMAN**  
Admitted: 1977; East Orange (Essex County)  
**Suspension 3 Months - 176 N.J. 510 (2003)**  
Decided: 6/20/2003, Effective: 5/28/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Denzil R. Dunkley for District VB*  
*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who forged a client's endorsement on a settlement check and, in another matter, deceived an attorney to whom he had agreed to pay a partial fee for work performed before the case was referred to respondent. The proofs showed that respondent had no intention to do so and that he deposited the settlement check and disbursed the entire fee to himself, stalling the other attorney's inquiries for several years. Finally, respondent improperly calculated his fee on the gross, rather than the net, settlement amount, in violation of *R.1:21-7(d)*.

The respondent has a history of discipline. In 1990, he was publicly reprimanded for failure to maintain proper time records and to preserve the identity of client funds. *In re Moorman, 118 N.J. 422*. In 1994, respondent was suspended from the practice of law for a period of three months for gross neglect, lack of diligence, failure to keep a client informed about the status of the matter, and failure to explain the matter to the extent reasonably necessary to permit the client to make informed decisions. *In re Moorman, 135 N.J. 1*. He received another reprimand in 1999 for lack of diligence, failure

to provide a written retainer agreement, failure to comply with bookkeeping requirements, and failure to cooperate with disciplinary authorities. *In re Moorman*, 159 N.J. 523. Earlier in 2003, the Supreme Court suspended respondent for three months for conduct prejudicial to the administration of justice, conflict of interest, release of escrow funds without the consent of the parties, withdrawal of fees without the client's consent, and failure to utilize a retainer agreement. *In re Moorman*, 175 N.J. 154.

**ELLIOTT D. MOORMAN**

Admitted: 1977; East Orange (Essex County)

**Suspension 1 Year - Unreported (2003)**

Decided: 11/21/2003; Effective: 08/28/2003

**APPEARANCES BEFORE SUPREME COURT**

*John J. Janasie for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for an attorney who grossly neglected an immigration matter, including failing to appear at two deportation hearings. As a result, the client was ordered deported. Respondent has an extensive disciplinary history. In 1990, respondent was publicly reprimanded for failure to maintain proper time records and preserve the identity of client funds. *In re Moorman*, 118 N.J. 422. He was suspended from the practice of law for a period of three months in 1994 for gross neglect, lack of diligence, failure to keep a client informed about the status of the matter, and failure to explain the matter to his client. *In re Moorman*, 135 N.J. 1. In 1999, he received another reprimand for lack of diligence, failure to have a written fee agreement, failure to comply with recordkeeping requirements and failure to cooperate with disciplinary authorities. *In re Moorman*, 159 N.J. 523. In 2003, the Supreme Court suspended him for a period of three months, effective February 28, 2003, for filing a grievance against the judge in order to pressure the judge or the court clerk to take action on behalf of respondent's son/client, engaging in a conflict of interest situation, releasing escrow funds without the consent of the parties, withdrawing fees without the client's consent, and failing to utilize a retainer agreement. *In re Moorman*, 175 N.J. 154. Later in 2003, the respondent was suspended for a period of three months, effective May 28, 2003, for forging a client's name on a settlement check, deceiving the client's prior attorney about the attorney's portion of the fee, and improperly calculating his own fee in a tort action.

**ELLIOTT D. MOORMAN**

Admitted: 1977; East Orange (Essex County)

**Suspension 1 Year – 178 N.J. 110 (2003)**

Decided: 11/21/2003; Effective: 08/28/2003

**APPEARANCES BEFORE SUPREME COURT**

*John J. Janasie for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year, said suspension to run concurrently with another one year suspension also imposed the same date, was the appropriate discipline for an attorney who accepted a retainer from a client to represent her in litigation and then failed to represent the client diligently, failed to communicate with the client, failed to utilize a retainer agreement, and failed to cooperate with disciplinary authorities during the investigation and processing of this matter. Respondent has an extensive disciplinary history. In 1990, respondent was publicly reprimanded for failure to maintain proper time records and preserve the identity of client funds. *In re Moorman*, 118 N.J. 422. He was suspended from the practice of law for a period of three months in 1994 for gross neglect, lack of diligence, failure to keep a client informed about the status of the matter, and failure to explain the matter to his client. *In re Moorman*, 135 N.J. 1. In 1999, he received another reprimand for lack of diligence, failure to have a written fee agreement, failure to comply with recordkeeping requirements and failure to cooperate with disciplinary authorities. *In re Moorman*, 159 N.J. 523. In 2003, the Supreme Court suspended him for a period of three months, effective February 28, 2003, for filing a grievance against the judge in order to pressure the judge or the court clerk to take action on behalf of respondent's son/client, engaging in a conflict of interest situation, releasing escrow funds without the consent of the parties, withdrawing fees without the client's consent, and failing to utilize a retainer agreement. *In re Moorman*, 175 N.J. 154. Later in 2003, the respondent was suspended for a period of three months, effective May 28, 2003, for forging a client's name on a settlement check, deceiving the client's prior attorney about the attorney's portion of the fee, and improperly calculating his own fee in a tort action. On November 21, 2003, respondent received a separate one

year suspension to run concurrently with this suspension for grossly neglecting an immigration matter, including failing to appear at two deportation hearings. As a result, the client was ordered deported.

**ROBERT L. MULLIGAN**

Admitted: 1968; Hackensack (Bergen County)

**Admonition - Unreported (2003)**

Decided: 6/3/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Howard A. Stern for District IIB*

*William F. McEnroe for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who engaged in a prohibited business transaction with a client without disclosing the attorney's personal interest in the matter and the fact that he did not intend to represent the client in the transaction.

**THOMAS M. MURRAY, JR.**

Admitted: 1971; Hackensack (Bergen County)

**Reprimand - 177 N.J. 503 (2003)**

Decided: 9/4/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Steven Pontell for District IIB*

*Thomas M. Murray, Jr. appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected two separate client matters and, in one, misrepresented the status of the matter to the client, despite the fact that the complaint was dismissed for failure to prosecute.

**CYNTHIA SHARP MYERS**

Admitted: 1983; Haddon Heights (Camden County)

**Censure - 178 N.J. 4 (2003)**

Decided: 10/27/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Michael J. Sweeney for Attorney Ethics*

*Carl D. Poplar for Respondent*

The Supreme Court of New Jersey held that a censure was the appropriate discipline for an attorney who made a misrepresentation to law enforcement officers when interviewed about a capital murder investigation involving State v. Fred Neulander. During the trial of that matter, the respondent later testified and admitted that she had lied to investigators during the earlier interview. The respondent was previously disciplined. In 1999, she received a reprimand after she had a flyer published and circulated in several newspapers regarding living trusts and estate practice, which contained a number of inaccurate misleading statements. *In re Sharp, 157 N.J. 27.*

**CHRIS S. NELSON**

Admitted: 1980; Woodbridge (Middlesex County)

**Admonition -Unreported (2003)**

Decided: 7/3/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard Galex for District VIII*

*John Peter Duggan for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to correct miscalculations at a real estate closing and failed to take proper action to reimburse the seller. During the

committee's investigation of this matter, and another matter, the respondent failed to cooperate with the disciplinary system as required by court rules.

**ANTHONY C. NWAKA**

Admitted: 1992; East Orange (Essex County)

**Suspension 3 Months** – 176 N.J. 516 (2003)

Decided: 7/1/2003, Effective: 8/1/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Gary A. Carlson for District VB*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who was retained by a client in connection with a personal injury action against his landlord. The attorney grossly neglected the matter, failed to keep his client informed about the status of the case and failed to notify the client, for more than a year, that the matter had been dismissed. Respondent also failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

**NICHOLAS PANARELLA, JR.**

Admitted: 1974; Marlton (Burlington County)

**Suspension 3 Years** – 177 N.J. 565 (2003)

Decided: 9/30/2003, Effective: 4/3/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Richard L. Scheff, admitted pro hac vice, for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who pleaded guilty in the United States District Court for the Eastern District of Pennsylvania to a Superseding Indictment charging him with being an accessory after the fact in a wire fraud scheme to deprive the public of the honest services of an elected official (Pennsylvania State Senator F. Joseph Loeper, Jr.), in violation of 18 U.S.C.A. 3, 1343, and 1346. Specifically, from 1993 to 1997, either directly or indirectly, respondent caused a total of \$330,000 to be paid to a Pennsylvania State Senator and assisted him in concealing their financial relationship. Furthermore, while concealing the relationship, the Senator took legislative actions that were favorable to respondent. The respondent had been temporarily suspended from the practice of law in the State of New Jersey since April 2, 2001. *In re Panarella*, 167 N.J. 53.

**PAUL J. PASKEY**

Admitted: 1983; Bayonne (Hudson County)

**Suspension 6 Months** - 175 N.J. 500 (2003)

Decided: 2/26/2003, Effective: 6/18/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*James P. Flynn for District VI*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who, in four client matters, was guilty of gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients and failure to cooperate with disciplinary authorities during the investigation and processing of the matters.

Respondent has a disciplinary history. In 1998, he received an admonition for gross neglect, lack of diligence and failure to communicate with a client. He was temporarily suspended in 2002 for serious irregularities in his record keeping practices. Thereafter, he received a three months suspension in 2002 in a default matter involving gross neglect, failure to communicate with a client, and failure to cooperate with disciplinary authorities. *In re Paskey*, 174 N.J. 334. Also in 2002,

the respondent was suspended for an additional period of three months for grossly neglecting two separate client matters, failing to communicate with the clients and, in one case, misrepresentation to a client of the status of the matter.

**JAMES I. PECK, IV**

Admitted: 1974; West Orange (Essex County)

**Suspension 21 Months – 177 N.J. 249 (2003)**

Decided: 7/23/2003, Effective: 10/25/2001

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Dennis A. Cipriano for Respondent*

The Supreme Court of New Jersey held that a 21 month time-served suspension retroactive to October 25, 2001, the effective date of respondent's automatic temporary suspension from practice, was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to one count of possession of child pornography, in violation of 18 U.S.C.A. 2252(a)(4)(B). The respondent admitted that he knowingly possessed at least three magazines depicting minors engaged in sexually explicit conduct. The respondent had been temporarily suspended from the practice of law since October 25, 2001. *In re Peck*, 170 N.J. 4.

**DEBORAH A. PIERCE**

Admitted: 1994; Vauxhall (Union County)

**Reprimand - 177 N.J.502 (2003)**

Decided: 9/4/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Janice L. Richter for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in a series of three cases, engaged in gross neglect, lack of diligence, failure to communicate with a client, failure to communicate in writing the basis or rate of the fee, and failure to cooperate with disciplinary authorities during the investigation of the matter.

**JOSEPH E. POVEROMO**

Admitted: 1988; Hackensack (Bergen County)

**Reprimand - 176 N.J. 507 (2003)**

Decided: 6/20/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Joseph E. Poveromo, Pro Se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who was convicted in the Superior Court of Passaic County of the fourth degree crime of contempt, in violation of N.J.S.A. 2C:29-9(b) involving the knowing violation of a provision of an order entered under the Prevention of Domestic Violence Act of 1990.

The respondent was reprimanded in 2002 for gross neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with ethics authorities. *In re Poveromo*, 170 N.J. 625. In that same year, respondent was again reprimanded for failing to cooperate with disciplinary authorities. *In re Poveromo*, 170 N.J. 627.

**JOSEPH E. POVEROMO**

Admitted: 1988; Hackensack (Bergen County)

**Suspension 3 Months – 176 N.J. 508 (2003)**

Decided: 6/20/2003



*APPEARANCES BEFORE REVIEW BOARD*

*Brian D. Iton for District IIA*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who grossly neglected two client matters, failed to communicate with the clients and failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

The respondent was reprimanded in 2002 for gross neglect, lack of diligence, failure to communicate with the client, and failure to cooperate with ethics authorities. *In re Poveromo, 170 N.J. 625*. In that same year, respondent was again reprimanded for failing to cooperate with disciplinary authorities. *In re Poveromo, 170 N.J. 627*.

**JOSEPH E. POVEROMO**

Admitted: 1988; Hackensack (Bergen County)  
**Suspension 3 Months – Unreported (2003)**  
Decided: 9/30/2003, Effective: 9/25/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Brian D. Iton for District IIA*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from practice for a period of three months was the appropriate discipline for an attorney who accepted a \$1,200 fee as a retainer to file a divorce complaint and then grossly neglected the matter, failed to communicate with the client, failed to take steps reasonably to protect the client's interests on termination of representation, and failed to cooperate with disciplinary authorities during the investigation and processing of the matter.

The respondent has a disciplinary history. In 2002, he was reprimanded for gross neglect, lack of diligence, failure to communicate with a client, and failure to cooperate with disciplinary authorities. *In re Poveromo, 170 N.J. 625*. In that same year, he was again reprimanded for failure to cooperate with disciplinary authorities and for other ethics violations. *In re Poveromo, 170 N.J. 627*. In 2003, the Court imposed another reprimand for respondent's conviction for contempt, when he violated a restraining order in a domestic relations matter. *In re Poveromo, 176 N.J. 507*. Again in 2003, the Court imposed a three-month suspension against the respondent for misconduct in two cases, including gross neglect, pattern of neglect, lack of diligence, failure to communicate with clients, failure to reply to a reasonable request for information from a disciplinary authority, and other violations of the Rules of Professional Conduct. *In re Poveromo, 176 N.J. 508*.

**KEVIN S. QUINLAN**

Admitted: 1993, Tuckerton (Ocean County)  
**Admonition - Unreported (2003)**  
Decided: 10/22/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Robert F. Rupinski for District IIIB*  
Respondent appeared pro se

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who prematurely released a \$1,000 real estate escrow for the completion of repairs to the seller, without first obtaining his client's authorization as the buyer.

**RICHARD W. RAINES**

Admitted: 1977; Newark, (Essex County)  
**Suspension 3 Months - 176 N.J. 424 (2003)**  
Decided: 6/3/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Sheila H. Mylan for District VC*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who engaged in the practice of law during a period when he had been declared ineligible by the Supreme Court for failure to pay the annual attorney registration fee. Respondent also was found guilty of failing to diligently represent a client at an arbitration hearing arising from her dismissal as a school crossing guard and failing to communicate with a client and to cooperate with the district ethics committee during the investigation and processing of this matter.

**BETH B. REISMAN-SHOLOM**  
Admitted: 1989; Freehold (Monmouth County)  
**Disbarment by Consent - 176 N.J. 161 (2003)**  
Decided: 5/7/2003

*REPRESENTATIONS*  
*Brian D. Gillet for Attorney Ethics*  
*Michael Gross for respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of an attorney who admitted that she could not successfully defend pending disciplinary allegations that she knowingly misappropriated client trust funds.

**JOHN F. RICHARDSON**  
Admitted: 1968; Somerville (Somerset County)  
**Reprimand - 177 N.J. 227 (2003)**  
Decided: 7/17/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Richard J. Engelhardt for Attorney Ethics*  
*John P. McDonald for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who pled guilty in the United States District Court for the District of New Jersey to a one-count information charging him with a federal misdemeanor – knowing and willful failure to keep and maintain Internal Revenue Service form 8300, in violation of 26 U.S.C.A. 7203. The information showed that on 24 occasions, between August 24, 1988 and December 31, 1998, clients gave respondent cash amounts ranging from \$1,000 to \$10,000 for a total of \$164,546 and that the respondent failed to file and maintain IRS form 8300 because he suspected that his clients were trying to hide income. The clients used the cash to buy real property with the respondent acting as the attorney.

**JOHN F. RODGERS, JR.**  
Admitted: 1970; Lindenwold (Camden County)  
**Suspension 3 Months - 177 N.J. 501 (2003)**  
Decided: 9/4/2003, Effective: 10/4/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Walton W. Kingsbery III for Attorney Ethics*  
*John F. Rodgers, Jr. appeared pro se*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, as administrator of an estate, engaged in gross neglect, lack of diligence, failure to communicate with a client, and failure to properly deliver funds or property to a client or third person. Respondent's unethical conduct resulted in the successor administrator obtaining a judgment against the respondent for \$70,000 plus interest for his malfeasance.

**DONALD S. ROSANELLI**

Admitted: 1981; Newark (Essex County)  
**Suspension 6 Months - 176 N.J. 275 (2003)**  
Decided: 5/20/2003, Effective: 6/22/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*  
*Robert J. DeGroot for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of six months was the appropriate discipline for an attorney who pled guilty to an accusation in the Superior Court of New Jersey, Law Division, Bergen County, charging him with endangering the welfare of a child, a crime of the fourth degree, in violation of *N.J.S.A. 2C:24-4(b)(5)(b)*, as a result of his downloading 23 pictures of children engaged in various sexual acts.

**RICHARD L. ROSENTHAL**

Admitted: 1965; Morris Plains (Morris County)  
**Suspension 6 Months - 177 N.J. 606 (2003)**  
Decided: 10/14/2003, Effective: 11/15/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Alan J. Strelzik for District X*  
*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who represented a client in a personal injury action and, although he initially took steps to investigate the matter, failed to prosecute the claim and, for a period of 1½ years, failed to communicate with the client. When he did communicate with the client, the respondent misrepresented that the complaint had been filed on his behalf and also supplied the client with a false docket number to reinforce the fabrication.

In 1982, respondent was publicly reprimanded for prejudicing his client's interests, failing to advise the client that her suit was about to be dismissed and, later, that it was dismissed, and failing to represent her zealously. *In re Rosenthal*, 90 N.J. 12. In 1990, he was suspended for one year for gross neglect, pattern of neglect, failure to seek the lawful objectives of his clients, failure to carry out contracts of employment, failure to adequately communicate with his clients, misrepresentations to clients, failure to refund a retainer, and failure to cooperate with disciplinary authorities. *In re Rosenthal*, 118 N.J. 454.

**DAVID S. RUDENSTEIN**

Admitted: 1981; Merchantville (Camden County)  
**Admonition - Unreported (2003)**  
Decided: 2/4/2003

*APPEARANCES BEFORE REVIEW BOARD*

*John P. Jehl for District IV*  
*Respondent appeared pro se*

The Disciplinary Review Board accepted a Motion for Discipline by Consent and held that an admonition was the appropriate discipline for an attorney who, for a period of 11 months, practiced law while ineligible for failure to pay the calendar year 2000 annual attorney assessment.

**JON CHRISTIAN SAJOUS**

Admitted: 1986; Hempstead, New York  
**Disbarment - 175 N.J. 441 (2003)**  
Decided: 2/20/2003

*APPEARANCES BEFORE SUPREME COURT*  
*Richard J. Engelhardt for Attorney Ethics*  
*Respondent failed to appear*

The Supreme Court of New Jersey held that Disbarment was the appropriate discipline for an attorney who was reciprocally disbarred in the state of New York as a result of a conviction in the District Court of Nassau County for criminal solicitation in the fourth degree. The matter arose from respondent's attempt to prevent a witness, a 14 year old boy, from testifying against his client by engaging a third party to threaten the witness with physical injury.

**DAVID F. SALVAGGIO**  
Admitted: 1977; Morristown (Morris County)  
**Reprimand** – 178 N.J. 20 (2003)  
Decided: 11/12/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*  
*Deborah E. Nelson for District X*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who accepted a retainer from a client to resolve a matter and then grossly neglected the case, failed to communicate with the client and made misrepresentations to the client about the status of the case.

**WOLF A. SAMAY**  
Admitted: 1980; Passaic (Passaic County)  
**Suspension 3 Years** - 175 N.J. 438 (2003)  
Decided: 2/11/2003, Effective: 3/12/2003

*APPEARANCES BEFORE SUPREME COURT*  
*Richard J. Engelhardt for Attorney Ethics*  
*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who had been removed by the Supreme Court of New Jersey as a Municipal Court Judge in the city of Passaic. *In re Samay*, 166 N.J. 25 (2001). Specifically, the respondent, for vengeful reasons, abused his judicial power to further his own personal interests. In one case, respondent arranged for the arrest of the estranged wife of a councilman who had actively participated in his appointment to the Municipal Bench. He compounded the situation by refusing to recuse himself from the arraignment proceeding, despite the fact that he recused himself from several other matters involving the same parties in the past. In the second case, respondent orchestrated the arrest of another individual by falsely reporting to police that that individual had threatened to kill his son. Again, respondent presided over the arraignment of that defendant even in the face of a motion to recuse citing the fact that respondent was both the judge and the complainant.

**EMILIO SANTIAGO**  
Admitted: 1995; Clifton (Passaic County)  
**Suspension 3 Months** - 175 N.J. 499 (2003)  
Decided: 2/26/2003, Effective: 3/28/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Lee A. Gronikowski for Attorney Ethics*  
*Alan Silber for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who concocted a "misidentification" plan to represent a DWI client. As a result, the attorney had one other than the client appear in municipal court as the client. The municipal court prosecutor discovered the ruse and respondent was indicted in Monmouth County for conspiracy to commit perjury, in violation of *N.J.S.A. 2C:5-2 and N.J.S.A. 2C:28-1*, third degree crimes; making a false report to law enforcement authorities, in violation of

*N.J.S.A. 2C:28-4(a)*, a fourth degree crime; and contempt of court in violation of *N.J.S.A. 2C:29-9*, a fourth degree crime. Thereafter, respondent was admitted into the Pretrial Intervention Program and the charges were later dismissed. The Court held that the respondent's conduct in this matter involved knowingly making a false statement of material fact or law to a tribunal, committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness, conduct involving dishonesty, fraud, deceit or misrepresentation and conduct prejudicial to the administration of justice.

**GLEN L. SCHEMANSKI**

Admitted: 1979; Cherry Hill (Camden County)

**Reprimand** - 175 N.J. 104 (2003)

Decided: 1/14/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Nitza I. Blasini for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who negligently misappropriated over \$12,000 in client trust funds. He also commingled personal and trust funds and failed to maintain proper records, as required by *R. 1:21-6*.

This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**WILLIAM E. SCHETLICK**

Admitted: 1990; Hackettstown (Warren County)

**Reprimand** - 176 N.J. 482 (2003)

Decided: 6/20/2003

*APPEARANCES BEFORE REVIEW BOARD*

*John J. Janasie for Attorney Ethics*

*William E. Schetlick, Pro Se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, between 1998 and 1999, in three separate client matters, neglected a will contest, a post-judgment divorce matter, and an eviction proceeding, also failing to communicate with the clients during their representations. In addition, respondent failed to utilize retainer agreements, improperly cashed retainer checks instead of depositing them to either his trust or business account, and failed to maintain client ledger cards for some matters.

**THOMAS J. SCHIAVO**

Admitted: 1979; Ledgewood (Morris County)

**Suspension 3 Years** - 176 N.J. 149 (2003)

Decided: 5/6/2003, Effective Date: 2/2/2001

*APPEARANCES BEFORE SUPREME COURT*

*John McGill, III for Attorney Ethics*

*Peter N. Gilbreth for respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who grossly neglected six client matters, failed to timely turn over third-party funds, negligently misappropriated client trust funds, failed to comply with his recordkeeping responsibilities, failed to cooperate with the Office of Attorney Ethics, made a misrepresentation to that office, and failed to comply with *R. 1:20-20* requiring him to notify clients, courts and adversaries of his initial temporary suspension from the practice of law. The Court also found that respondent's abandonment of clients occurred, not because of indifference to their wellbeing, but because of the respondent's alcoholism and other serious personal problems.

The respondent was temporarily suspended by the Supreme Court on October 26, 1999 for failure to cooperate with the Office of Attorney Ethics in its investigation of the above matter. *In re Schiavo*, 162 N.J. 43. In 2000, respondent was suspended from the practice of law for a period of three months, for lack of diligence, failure to communicate with a

client, failure to promptly deliver third-party funds, failure to return an unearned retainer, knowingly disobeying an obligation under the rules of a tribunal and misrepresentation. *In re Schiavo*, 165 N.J. 533.

**STUART P. SCHLEM**

Admitted: 1983; Manalapan (Monmouth County)

**Suspension 3 Months - 175 N.J. 437 (2003)**

Decided: 2/11/2003, Effective: 3/12/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Regina D. Aifer for District IX*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who, in connection with an appeal from a condemnation action, engaged in gross neglect, lack of diligence, failure to communicate with a client, misrepresentation and failure to cooperate with disciplinary authorities during the investigation and processing of the matter.

The respondent has a disciplinary history. In 1994, respondent was privately reprimanded for failure to communicate with a client. In 2000, he received a reprimand for record keeping deficiencies, in violation of R. 1:21-6 and RPC 1.15(d), and failure to cooperate with disciplinary authorities. *In re Schlem*, 165 N.J. 536 (2000).

**JEFFREY D. SERVIN**

Admitted: 1977; Camden (Camden County)

**Suspension 3 Months - 176 N.J. 504 (2003)**

Decided: 6/20/2003, Effective: 7/21/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Anne S. Cantwell for District IV*

*Michael D. Miller for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who failed to maintain a bona fide office as required by R.1:21-1(a). Respondent has a disciplinary history. He was privately reprimanded in 1990 for commingling personal and client funds and failing to comply with trust and business account recordkeeping requirements. In 2000, he was reprimanded for failure to maintain a bona fide office. *In re Servin*, 164 N.J. 366.

**BENJAMIN A. SILBER**

Admitted: 1976; Carneys Point (Salem County)

**Disbarment by Consent - 175 N.J. 552 (2003)**

Decided: 3/10/2003

*REPRESENTATIONS*

*Michael J. Sweeney for Attorney Ethics*

*Angelo J. Falciani for respondent*

The Supreme Court of New Jersey accepted the Disbarment by Consent of an attorney who admitted that he could not successfully defend pending disciplinary charges alleging the knowing misappropriation of trust funds in an estate matter. This matter was discovered solely as a result of the Random Audit Compliance Program.

The respondent had been previously disciplined. In 1995, the respondent received a reprimand for improperly communicating with a party known to have been represented by counsel and for improperly drafting a release in an attempt to avoid a disciplinary action. *In re Silber*, 139 N.J. 605. In 2001, he received another reprimand for negligent misappropriation of client trust funds in four instances and for failure to maintain proper attorney records. *In re Silber*, 167 N.J. 3.



**LESLIE A. SMALLWOOD**

Admitted: 1981; Elkins Park (Pennsylvania)

**Disbarment - 176 N.J. 506 (2003)**

Decided: 6/20/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the only appropriate discipline for an attorney who was disbarred in the Commonwealth of Pennsylvania for knowingly misappropriating clients' trust funds in the amount of at least \$139,500.

**JOAN GERTSACOV SMITH**

Admitted: 1974; Moorestown (Burlington County)

**Suspension 3 Years - 178 N.J. 86 (2003)**

Decided: 11/21/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Walton W. Kingsbery III for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who grossly neglected an estate matter by allowing it to remain open and unresolved for a period of 17 years. Additionally, respondent delayed accountings and making timely distribution of the estate, despite repeated requests from the Division of Law of the Office of the Attorney General of the State of New Jersey and five court orders requiring her to do so. Moreover, the respondent charged an unreasonable fee, failed to safeguard property, and failed to cooperate with disciplinary authorities during the investigation and processing of this matter. The respondent has an extensive disciplinary history. In 1991, she received a private reprimand for lack of diligence, failure to communicate with the client, and failure to cooperate with disciplinary authorities, in connection with a matrimonial matter. She was suspended from the practice of law for a period of six months in 1997 for lack of diligence, failure to communicate with a client, failure to turn over a client's file, failure to return an unearned fee, and failure to cooperate with disciplinary authorities. *In re Smith*, 151 N.J. 483. In 2000, she was again suspended for an additional six month period, in a default matter, for failure to communicate the basis or rate of the fee in writing, failure to surrender the client's papers upon termination of representation, failure to cooperate with disciplinary authorities, and failure to give notice of suspension as required by R.1:20-20. *In re Smith*, 165 N.J. 541.

**STEVEN W. SMOGER**

Admitted: 1969, Margate (Atlantic County)

**Reprimand - 176 N.J. 160 (2003)**

Decided: 5/6/2003

*APPEARANCES BEFORE SUPREME COURT*

*Richard J. Engelhardt for Attorney Ethics*

*Carl D. Poplar for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who had been removed as a municipal court judge for numerous violations of the Code of Judicial Conduct. *In re Smoger*, 173 N.J. 25 (2002). With respect to his discipline as an attorney, the Supreme Court held that the respondent's refusal to accept the Supreme Court's decision that he should not serve as a referee in professional boxing matches while sitting as a municipal court judge, followed by a subsequent misrepresentation to the then-Administrative Director of the Courts and the Advisory Committee on Judicial Conduct, stating that he had stopped doing so when, in fact, that was untrue, reflected adversely on his fitness to practice law and warranted a reprimand.

**JOHN W. SPOGANETZ**

Admitted: 1978; Carteret (Middlesex County)

**Admonition - Unreported (2003)**

Decided: 6/26/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Hillary L. Brower for District VIII*

*James P. Nolan, Jr. for Respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was hired by a client to collect \$250,000 from the client's nephew. The respondent filed a lis pendens representing that litigation was pending between the client and the debtor. Respondent knew that that information was inaccurate.

**WALTER M. STENHACH**

Admitted: 1981; Coudersport, Pennsylvania

**Suspension 9 Months – 177 N.J. 559 (2003)**

Decided: 9/16/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of nine months was the appropriate discipline for an attorney who was suspended in the Commonwealth of Pennsylvania for a nine month period based upon his conviction in the Court of Common Pleas, Dauphin County, Pennsylvania, to two counts of willful failure to file and willful failure to remit Pennsylvania income taxes, in violation of 72 P.S. Section 7353(c), for the years 1996 and 1997. He had previously received a public censure (reprimand) in Pennsylvania for his conviction for the willful failure to file a federal income tax return for calendar year 1991.

**RICHARD C. SWARBRICK**

Admitted: 1958; Piscataway (Middlesex County)

**Reprimand - 178 N.J. 20 (2003)**

Decided: 11/12/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Janice L. Richter for Attorney Ethics*

*Robert E. Margulies for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in three separate matters, engaged in conduct intended to disrupt a tribunal. Respondent's violations included numerous statements in front of the jury that the judge was unfair and prejudiced, announcing the time more than 130 times during a jury trial, which conduct was disruptive, and his failure to expedite litigation. As the Disciplinary Review Board noted in its unreported opinion:

As an experienced practitioner, he knew better than to comport himself the way he did before these judges. As to respondent's claims that the judges were biased against his clients, the proper forum for that argument is the appellate tribunal or a judicial review board. Further, respondent's conduct was not an aberrational outburst, but a continued course of conduct throughout the proceedings.

The respondent previously received a private letter of reprimand in 1988 for his verbal assault on a municipal court judge during a court proceeding, for which he was cited three times for contempt and fined \$450.

**DOROTHY S. TAMBONI**

Admitted: 1991; Middle Village (New York)

**Suspension 3 Years – 176 N.J. 566 (2003)**

Decided: 7/1/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*John B. Sogliuzzo for Respondent*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three years was the appropriate discipline for an attorney who was disbarred in the State of New York following her federal conviction on one count of witness tampering, in violation of 18. U.S.C.A. Section 11512(b). She had been temporarily suspended from the practice of law since April 12, 2000. *In re Tamboni*, 163 N.J. 293.

**THADEUS A. TANSKI**

Admitted: 1997; Garfield (Bergen County)

**Reprimand - 175 N.J. 153 (2003)**

Decided: 1/28/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Janice L. Richter for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey accepted a Motion for Discipline by Consent and held that a reprimand was the appropriate discipline for an attorney who engaged in gross neglect by failing to properly manage his client's property, which was ultimately listed for sheriff's sale. He also permitted two other clients to live in the property rent free, without fully disclosing this conflict of interest to the clients. Lastly, he failed to execute a substitution of attorney form in a matter and to turn over the client's file to the new attorney.

**SANDRA R. TAYLOR**

Admitted: 1990; South Orange (Essex County)

**Reprimand - 176 N.J. 123 (2003)**

Decided: 4/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Herbert I. Waldman for District VB*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in a series of five client matters, engaged in gross neglect, lack of diligence, failure to communicate with the clients, failure to take steps to protect the clients' interests on termination of representation and failure to provide clients with the proper notice on the sale of her law practice. In fashioning the discipline imposed in this case, the Court gave credence to respondent's mitigation that she had severe emotional problems during the time in question and that she did make attempts to close her practice down and distribute client files. The Disciplinary Review Board concluded that, although she did not follow proper procedures, her conduct was not motivated by indifference to her clients' interests. The Supreme Court also determined that the respondent should practice under the supervision of a practicing attorney approved by the Office of Attorney Ethics for a period of one year.

**JEFF E. THAKKER**

Admitted: 1995; East Brunswick (Middlesex County)

**Reprimand - 177 N.J. 228 (2003)**

Decided: 7/17/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who pled guilty in the Spring Lake Municipal Court to harassment, in violation of N.J.S.A. 2C:33-4(a), a petty disorderly persons offense. The basis of the charge was that the respondent harassed a former client, telephoning her repeatedly, after she told him to stop. Additionally, respondent was abusive to the police officer who responded in the matter. Despite the police officer's warning, the respondent continued to call the former client and the police officer.

**TERRANCE N. TONER**

Admitted: 1988; Perth Amboy (Middlesex County)

**Admonition - Unreported (2003)**

Decided: 5/23/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Brian D. Gillet for Attorney Ethics*

*Terrance N. Toner, Pro Se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who failed to maintain attorney trust and business account records in accordance with R.1:21-6 and who negligently misappropriated client trust funds. This matter was discovered solely as a result of the Trust Overdraft Notification Program.

**RAYMOND N. TORRES, JR.**

Admitted: 1986, West Orange (Essex County)

**Reprimand - 176 N.J. 153 (2003)**

Decided: 5/6/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Lee A. Gronikowski for Attorney Ethics*

*Anthony P. Ambrosio for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in a series of two client cases, neglected the matters, failed to communicate with the clients, failed to pay funds due to a client and to third parties, improperly lent funds to a client, and violated recordkeeping rules. Additionally, the Supreme Court determined that, for a period of one year, the respondent must practice law under the supervision of a proctor and must submit quarterly reconciliations of his attorney trust account to the Office of Attorney Ethics for a period of two years.

**JOHN A. TUNNEY**

Admitted: 1988; Woodbridge (Middlesex County)

**Reprimand - 176 N.J. 273 (2003)**

Decided: 5/20/2003

*APPEARANCES BEFORE SUPREME COURT*

*Brian D. Gillet for Attorney Ethics*

*Pamela Lynn Brause for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who grossly neglected three matters for the same client and misrepresented their status to the client over a period of years. In those matters and in one other client's matter, respondent also failed to turn over the files to the clients or new counsel and failed to cooperate with the disciplinary system during the investigation and processing of the matter. In view of the fact that the respondent also suffered from depression, for which he has been under psychiatric care since 2000, the Court also ordered that the respondent must submit proof of his fitness to practice law by a mental health professional within thirty days after being disciplined.

**VINCENT C. UCHENDU**

Admitted: 1990; Washington, D.C.

**Reprimand - 177 N.J. 509 (2003)**

Decided: 9/4/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard J. Engelhardt for Attorney Ethics*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who had been disciplined by a 30-day suspension in the District of Columbia for improperly signing clients' names on at least

sixteen documents, notarizing the documents, and then filing them with the Probate Division of the District of Columbia Superior Court. In mitigation, the respondent submitted that his conduct did not involve serious misrepresentations and he produced affidavits from the clients that they authorized the respondent to sign their names to the filings.

**KENNETH VAN RYE**

Admitted: 1979; Elmwood Park (Bergen County)

**Disbarment** - 176 N.J. 162 (2003)

Decided: 5/6/2003

*APPEARANCES BEFORE SUPREME COURT*

*David E. Johnson, Jr. for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that disbarment was the appropriate discipline for an attorney who, in the current matter, was retained to represent a client in a wrongful death lawsuit and failed to appear for trial, resulting in dismissal of the complaint. The respondent took no action thereafter to reinstate it and misrepresented the status of the matter to his clients. In addition to grossly neglecting the client's matter, respondent failed to cooperate with disciplinary authorities during the investigation and processing of the case. In light of respondent's extensive disciplinary record, including four suspensions in 12 years, the Supreme Court held that disbarment was appropriate. His prior disciplinary history included a suspension for three months in 1991 for recordkeeping violations, failure to submit a formal accounting to a client, failure to properly designate an account as an attorney trust account, and withdrawal of fees from a client account without first depositing them into his business account. *In re Van Rye*, 124 N.J. 664. In 1992, respondent was suspended for two years for entering into a business transaction with a client without advising him to obtain independent counsel, executing a jurat on a document signed outside his presence, improperly altering a deed, signing closing documents without a power of attorney, and disbursing mortgage proceeds without obtaining the requisite authorization. *In re Van Rye*, 128 N.J. 108. Respondent was suspended for three months in 2001 for exhibiting a lack of diligence and failing to cooperate with disciplinary authorities. *In re Van Rye*, 167 N.J. 592. In 2002, the respondent was suspended for six months for failure to communicate with a client, failure to communicate the rate or basis of the legal fee in writing, failing to cooperate with disciplinary authorities, and knowingly violating the Rules of Professional Conduct. *In re Van Rye*, 170 N.J. 405.

**CLIFFORD VAN SYOC**

Admitted: 1980; Cherry Hill (Camden County)

**Admonition** - *Unreported* (2003)

Decided: 4/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Richard B. Charny for District I*

*Steven K. Kudatzky for respondent*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who, for a period of nine months, failed to advise clients with whom he had met that the firm had neither accepted nor declined their representation.

**SHARON WADE-SPEARMAN**

Admitted: 1980; Irvington (Essex County)

**Reprimand** - 176 N.J. 509 (2003)

Decided: 6/20/2003

*APPEARANCES BEFORE SUPREME COURT*

*David E. Johnson, Jr. for Attorney Ethics*

*Meldon D. Jenkins-Jones appeared for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who knowingly filed a false divorce complaint asserting that the client was a resident of Essex County both at the time the cause of action accrued and at the time of the filing of the complaint. The respondent also served as a municipal court judge at the time of her misconduct.

**CAROL WARD**

Admitted: 1992; Carteret (Middlesex County)  
**Disbarment by Consent – 176 N.J. 521 (2003)**  
Decided: 7/7/2003

*REPRESENTATIONS*

*Brian D. Gillet for Attorney Ethics*  
*Darren M. Gelber for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of an attorney who admitted that she could not successfully defend pending disciplinary charges alleging the knowing misappropriation of client trust funds. The respondent had been temporarily suspended from the practice of law since December 3, 2002.

**MAURY R. WINKLER**

Admitted: 1990; Newark (Essex County)  
**Reprimand - 175 N.J. 438 (2003)**  
Decided: 2/11/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*  
*Bernard K. Freamon for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who commingled personal and trust funds in his trust account, negligently misappropriated trust funds and failed to maintain his attorney records in accordance with R. 1:21-6.

**DAVID J. WITHERSPOON**

Admitted: 1994; Newark (Essex County)  
**Reprimand - 176 N.J. 149 (2003)**  
Decided: 5/6/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery III for District VA*  
*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who represented a client in a tax appeal and then failed to communicate the status of the matter to the client, and also failed to cooperate with disciplinary authorities during the investigation and processing of the matter.

The respondent previously received an admonition in 2002 for numerous recordkeeping violations, failure to maintain a bona fide law office and the use of a misleading mail drop address on his letterhead.

**DAVID J. WITHERSPOON**

Admitted: 1994; Newark (Essex County)  
**Admonition - Unreported (2003)**  
Decided: 10/24/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Stephen H. Knee for District VA*  
*Respondent argued the cause pro se*

The Disciplinary Review Board held that an admonition was the appropriate discipline for an attorney who was retained by a client to pursue a municipal tax appeal. The respondent failed to communicate the status of the matter to his client or communicate with her so that she could make informed decisions about the representation.



The respondent previously received an admonition in 2002 for numerous recordkeeping violations, failure to maintain a bona fide law office and the use of a misleading mail drop address on his letterhead. Respondent received a reprimand in May 2003 for failing to communicate the status of a matter to a client, and failing to cooperate with disciplinary authorities during the investigation and processing of the matter. *In re Witherspoon*, 176 N.J. 149.

**LOU ANN K. WONSKI**

Admitted: 1992; Sewaren (Middlesex County)

**Reprimand - 177 N.J. 508 (2003)**

Decided: 9/4/2003

*REPRESENTATIONS BEFORE REVIEW BOARD*

*Gregory J. Giordano for District VII*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who was retained to file a claim for personal injuries and then failed to properly communicate with the client and failed to withdraw from representation after her services were terminated. The respondent also failed to return the client's file, even after the succeeding attorney obtained a court order compelling that result. The respondent also failed to cooperate with the district ethics committee during the investigation and processing of this matter.

**CASSELL WOOD, JR.**

Admitted: 1974; North Plainfield (Union County)

**Reprimand - 175 N.J. 436 (2003)**

Decided: 2/11/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Jamie K. Von Ellen for District XII*

*Michael Blacker for respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who, in representing a client in a contested probate matter, totally mishandled the matter from the outset. Respondent's only significant actions in the case were his attempt to file a procedurally defective accounting, which the Probate Court promptly rejected. The respondent had no reasonable explanation for his chronic failure to attend to the case. As a result, the Court found him guilty of gross neglect, lack of diligence, failure to communicate, failure to expedite litigation, failure to comply with discovery requests and conduct prejudicial to the administration of justice.

The respondent has a disciplinary history. In 1985, he received a private reprimand for recordkeeping violations. In 2002, he was suspended for three months for negligent misappropriation of client funds, record keeping violations, permitting or authorizing a disbarred attorney to perform services for him and failure to cooperate with disciplinary authorities. *In re Wood*, 170 N.J. 628.

**LOIS ANNE WOOD**

Admitted: 1983; Trenton (Mercer County)

**Reprimand - 175 N.J. 586 (2003)**

Decided: 3/25/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Joan Josephson for District VII Ethics Committee*

*Lois Anne Wood waived appearance*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to cooperate with disciplinary authorities during the investigation of a matter.

In 1997, respondent received an admonition for also failing to cooperate with disciplinary authorities during an earlier investigation.

**PETER A. WOOD**

Admitted: 1993; Williamstown (Gloucester County)

**Suspension 3 Months - 175 N.J. 551 (2003)**

Decided: 3/11/2003, Effective: 11/14/2002

*APPEARANCES BEFORE REVIEW BOARD*

*Walton W. Kingsbery, III for Attorney Ethics*

*Respondent did not appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of three months was the appropriate discipline for an attorney who engaged in the practice of law after having been declared ineligible by the Supreme Court for failure to pay his annual attorney registration fee, represented a client in a collection matter without a written fee agreement, failed to remit the debtor's payments to his client and failed to cooperate during the investigation of the grievance with the disciplinary system.

The respondent was previously disciplined. On November 14, 2002, he was suspended for three months from the practice of law for gross neglect, failure to communicate, failure to cooperate with ethics authorities and misrepresentation. *In re Wood*, 174 N.J. 507. He was not reinstated thereafter.

**SCOTT WOOD**

Admitted: 1988; Mount Holly (Burlington County)

**Censure – 177 N.J. 514 (2003)**

Decided: 9/9/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Melissa A. Czartoryski for District IIIB*

*Respondent waived appearance*

The Supreme Court of New Jersey held that a censure was the appropriate discipline for an attorney who was retained to file an appeal, but then grossly neglected the matter, allowing it to be dismissed. The respondent took no steps to reinstate the appeal. He also failed to communicate with the client. The respondent was previously disciplined. In 1999, he received an admonition for failure to communicate with a client in a matrimonial matter. In 2000, he received a reprimand in a default matter for lack of diligence and failure to communicate with his client in two matters. *In re Wood*, 165 N.J. 564.

**STANLEY M. YACKER**

Admitted: 1963; Matawan (Monmouth County)

**Disbarment by Consent – 176 N.J. 519 (2003)**

Decided: 7/7/2003

*REPRESENTATIONS*

*Richard J. Engelhardt for Attorney Ethics*

*Lawrence S. Lustberg for Respondent*

The Supreme Court of New Jersey accepted the disbarment by consent of a respondent who pled guilty to a superseding indictment, no. 01-47, in the United States District Court for the District of New Jersey to charges of conspiracy to commit wire fraud (18 U.S.C.A. 371), wire fraud (18 U.S.C.A. 1343), and a one-count Information charging conspiracy to commit wire fraud (18 U.S.C.A. 371). The respondent had been temporarily suspended from the practice of law since February 5, 2002.

**ELAINE P. ZAMULA**

Admitted: 1976; Lavellette (Ocean County)

**Reprimand - 176 N.J. 152 (2003)**

Decided: 5/6/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Guy P. Ryan for District IIIA*

*Respondent failed to appear*

The Supreme Court of New Jersey, on a certified record from and decision by the Disciplinary Review Board, held that a reprimand was the appropriate discipline for an attorney who was retained to represent a client in an estate matter and then failed to reasonably communicate with the client, failed to act diligently, and failed to cooperate with disciplinary authorities during the investigation and processing of this matter.

**KAREL L. ZARUBA**

Admitted: 1977; Naples, Florida

**Suspension 1 Year – 177 N.J. 564 (2003)**

Decided: 9/30/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Janice L. Richter for Attorney Ethics*

*Respondent failed to appear*

The Supreme Court of New Jersey held that a suspension from the practice of law for a period of one year was the appropriate discipline for corporate counsel for Warner-Lambert, who essentially bribed two attorneys not to pursue future claims against the drug company in exchange for the payment of \$225,000. Mr. Zaruba's offering of the agreement placed defense counsel in a conflict of interest situation with their own clients, because the agreement contained a confidentiality clause, that prohibited the attorneys from disclosing the full terms of the settlement to their clients. Those terms included an agreement not to sue or otherwise assert any claims on behalf of any parties against Warner-Lambert relating to the product in question and that the \$225,000 payment was for reasonable fees and expenses for the litigation, with the clients receiving only a full, money-back guarantee for the defective product. The attorneys told their clients that they were abandoning claims against Warner-Lambert because they had not obtained a sufficient number of consumers willing to join the class action. The agreements here violated *RPC 5.6(b)* by making an agreement in which a restriction on a lawyer's right to practice is part of the settlement; and *8.4(a)* by inducing or assisting others to violate the RPC's. In an unreported opinion, the Disciplinary Review Board advised the bar that:

"We caution the bar that efforts to buy off plaintiffs' counsel by secret agreements of the kind present here will be viewed as extremely serious, warranting substantial suspensions."

**JAMES C. ZIMMERMANN**

Admitted: 1991; Vernon (Sussex County)

**Reprimand – 178 N.J. 109 (2003)**

Decided: 11/21/2003

*APPEARANCES BEFORE REVIEW BOARD*

*Carol White-Connor for District X*

*Donald A. Caminiti for Respondent*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who represented a client charged with DWI and careless driving arising out of a motor vehicle accident. He was also retained to represent the client in a personal injury action, which he grossly neglected, and he failed to communicate the basis or the rate of his fee to the client in writing as required by court rules. The respondent was previously disciplined. In 1998, he was admonished for failing to properly research the applicable law in a matter, failing to take steps to file a complaint, and accepting a matter for which he had insufficient experience.

**DANIEL B. ZONIES**

Admitted: 1970; Cherry Hill (Camden County)

**Reprimand - 175 N.J. 106 (2003)**

Decided: 1/14/2003

*APPEARANCES BEFORE REVIEW BOARD*  
*Robert J. Prihoda for Attorney Ethics*  
*Respondent appeared pro se*

The Supreme Court of New Jersey held that a reprimand was the appropriate discipline for an attorney who failed to safeguard client funds and commingled personal funds in his attorney trust account totaling over \$180,000. Ultimately, the respondent properly paid out all but \$46,000, which amounts remained unidentified to any particular client files.

In addition to reprimanding respondent, the Supreme Court ordered that a trustee be appointed at respondent's expense to disburse all remaining client funds to those who can be located and whose funds can be identified.

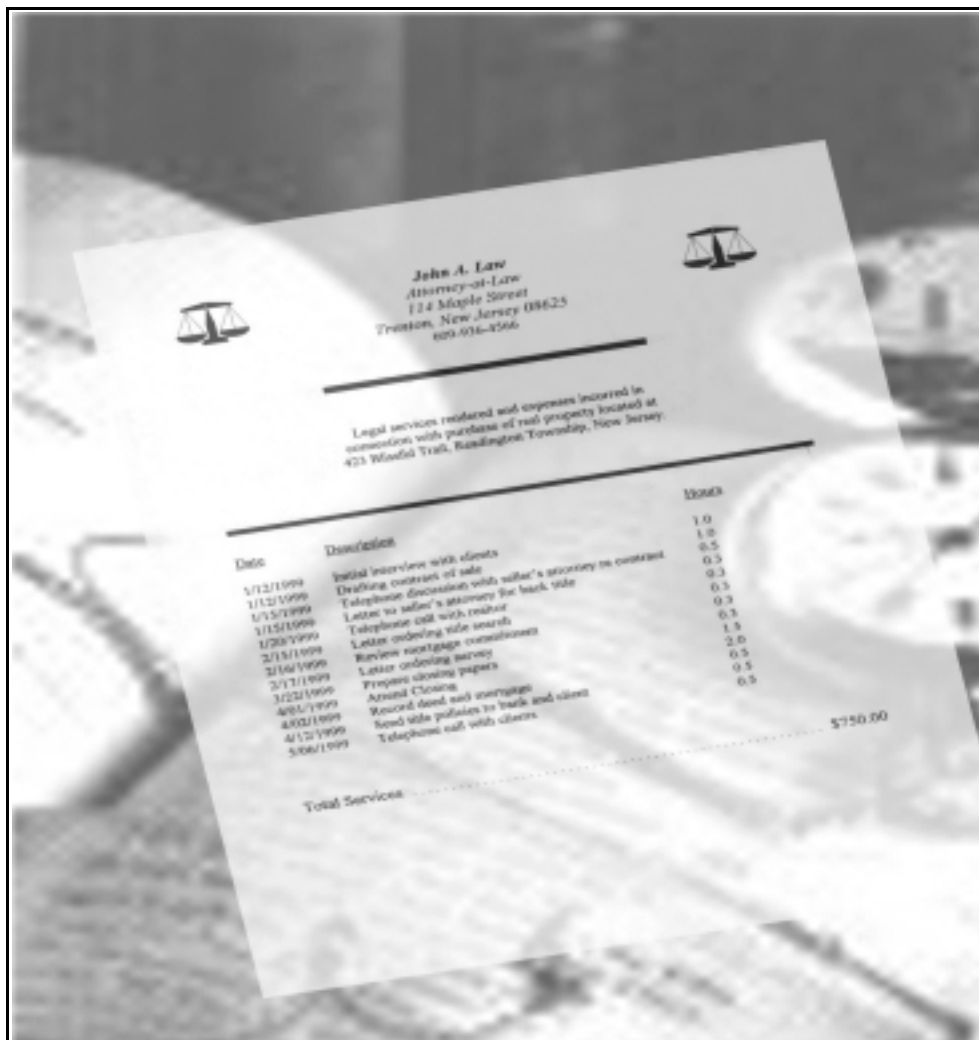
This matter was discovered solely as a result of the Random Audit Compliance Program.



# **FEE ARBITRATION SYSTEM**

**Chapter Three**





**“The policy underlying the fee arbitration system is the promotion of confidence in the bar and the judicial system.**

**‘If it is true – and we believe it is – that public confidence in the judicial system is as important as the excellence of the system itself and if it is also true – as we believe it is – that a substantial factor that erodes public confidence is fee disputes, then any equitable method of resolving those in a way that is clearly fair to the client should be adopted.... The least we owe to the public is a swift, fair and inexpensive method of resolving fee disputes.’ ” (Quoting from *LiVolsi*, 85 N.J. 576, 601-602 (1981))**

**Associate Justice James H. Coleman, Jr.  
*Saffer v. Willoughby*, 143 N.J. 256, 263 (1996)**



## 2003 Highlights

In 2003, district fee arbitration committees continued to work hard to handle a total of 1,752 disputes over lawyers' fees. That total consisted of 595 matters carried over from 2002 and 1,157 new filings. For the fourth year out of the last five, the fee arbitration system cleared more cases than it added. **Figure 21.** Only in 2000 were committees unable to clear the calendar as the number of cases disposed (1,220) failed to exceed the number of new filings that year (1,232).

Fee committees took in 1,157 new cases and disposed of 1,243 matters during 2003. As a result, the number of cases pending at year's end decreased to 509 from 595.

The average number of cases pending before each of the 17 district fee arbitration committees remained at a manageable level of 30 cases per district. These achievements reflect the continued hard work of over 294 volunteer attorneys and public members. Their work is coordinated and administered by the Office of Attorney Ethics (OAE), aided by a statewide database that tracks all fee cases.

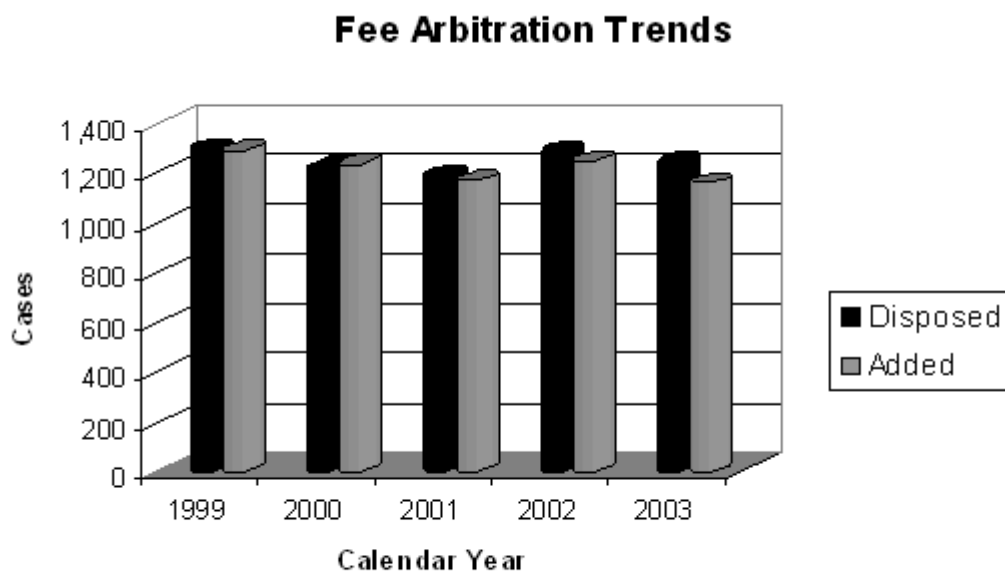


Figure 21



## Origin and Administration

The Supreme Court of New Jersey created the current system in 1978 to deal solely with attorney-client fee disputes, in recognition of the fact that fee disputes are not disciplinary matters. As a result, the Attorney Fee Arbitration System in New Jersey operates independently of the attorney disciplinary system.

The New Jersey program was the second in the country, behind Alaska, to see the wisdom of offering clients and attorneys an inexpensive, fast and confidential method of resolving fee disagreements. Today, New Jersey remains one of only a handful of states to offer a mandatory, statewide program. Other such programs exist in Alaska, California, District of Columbia, Maine, New York, Montana, North Carolina, South Carolina and Wyoming. These programs offer a real remedy to clients who believe that they have been charged more than a reasonable fee. Lawyers in New Jersey are also required to notify their clients of the availability of fee arbitration prior to bringing a lawsuit. If a client chooses fee arbitration, the lawyer must arbitrate the matter.

The fee arbitration process is a model of simplicity. It is a two-tiered system that operates statewide. **Figure 22.** The OAE administers it. Deputy Ethics Counsel John McGill, III is the OAE's part-time Statewide Fee Coordinator. Fee Assistant, Gerry M. Stults, Secretary Mercedes R. Schneider and Support Staff Mary Zienowicz assist him on a part-time basis. Fee arbitration is conducted on two levels: 17 District Fee Arbitration Committees and the Statewide Disciplinary Review Board (Review Board).



## Initiating Arbitration

Fee arbitration is initiated when a client files an arbitration request form with the secretary of the fee committee in a district where the lawyer maintains an office for the practice of law. Both the client and attorney are required to pay a \$50 administrative filing fee for utilizing the fee arbitration system. Fee committees have jurisdiction irrespective of whether the attorney has been “suspended, resigned, disbarred or transferred to ‘Disability-Inactive’ status since the fee was incurred.” R. 1:20A-3(a). District fee committees are organized along geographic lines that are identical to ethics committee districts.

Since attorney participation in New Jersey’s fee program is mandatory, the request form requires that the client consent to be bound by the results of the fee arbitration process. In order to insure that consent is informed, all fee secretaries provide clients with a “Fee Information Pamphlet,” which explains the Fee Arbitration process. Fee committees adjudicate fee controversies between lawyers and clients. They do not render advisory opinions. To assist lawyers who have questions about the ethical propriety of certain types of fee provisions or agreements, the Supreme Court has established an Advisory Committee on Professional Ethics, which renders advisory opinions. That committee also answers general ethics questions in an advisory manner.



## Procedural Rules

In fee matters, the burden of proof is on the attorney to prove, by a preponderance of the evidence, that the fee charged is reasonable. In accordance with Rule of Professional Conduct 1.5, there are at least eight factors that may be considered in establishing the reasonableness of a fee:

- ♦ the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

## Fee Arbitration System

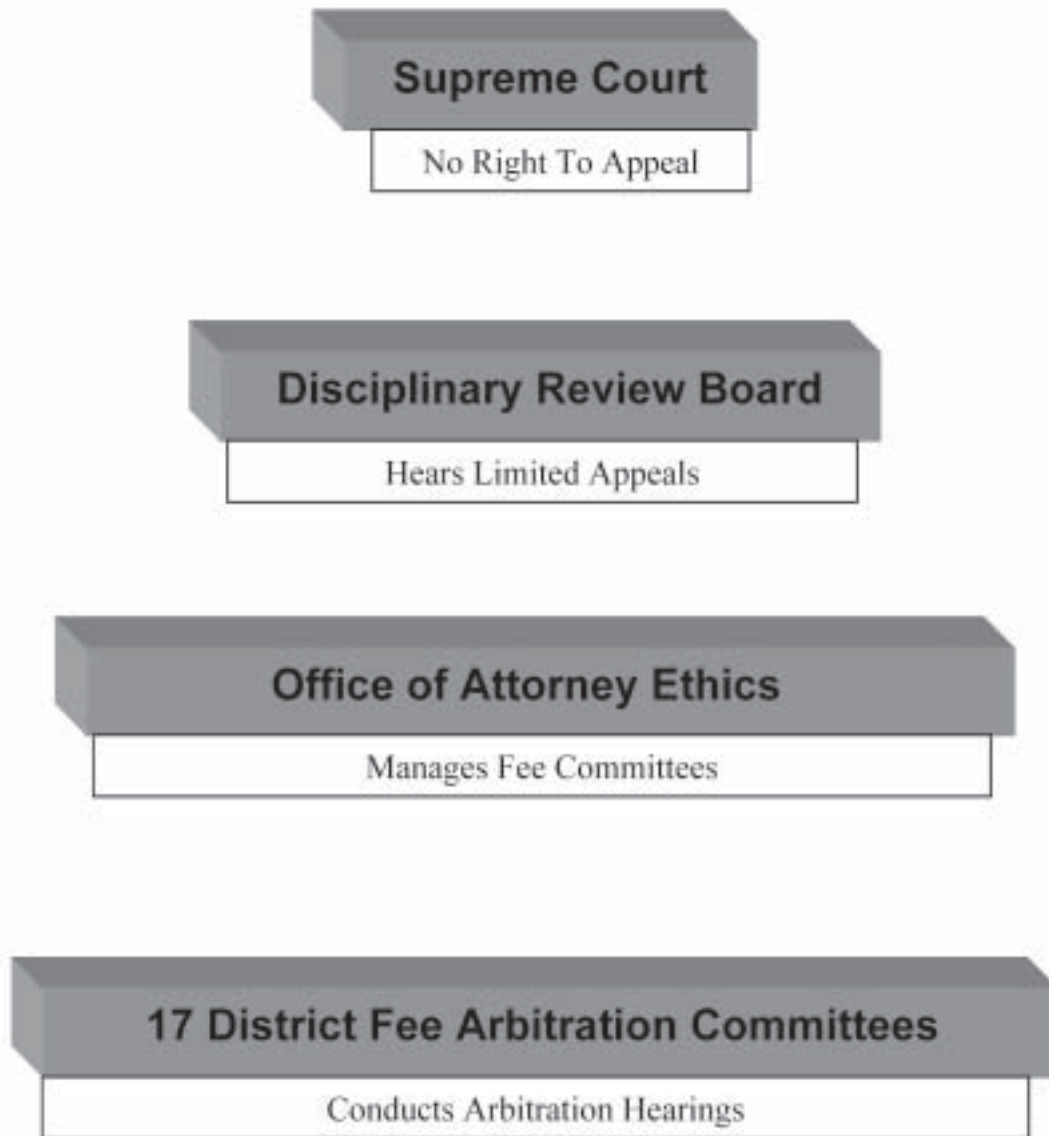


Figure 22

- ◆ the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- ◆ the fee customarily charged in the locality for similar legal services;
- ◆ the amount involved and the results obtained;
- ◆ the time limitations imposed by the client or by the circumstances;
- ◆ the nature and length of the professional relationship with the client;
- ◆ the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- ◆ whether the fee is fixed or contingent.

After a fee arbitration request form has been filed with the secretary, a questionnaire, called an Attorney Fee Response Form, is sent to the attorney. In addition to requesting a copy of the bill, any written fee agreement and any time records, the attorney is required to reply to the client's explanation contained in the initial request form as to why the client disagrees with the attorney's bill. The attorney must serve a copy of the Attorney Fee Response on the client and must file copies with the secretary, along with the \$50 administrative filing fee, within 20 days after the attorney's receipt of the client's initial request for arbitration. Within that same time period, the attorney may join as a third party any other "attorney or law firm which the original attorney alleges is...potentially liable in whole or part for the fee..." Rule 1:20A-3(b). At any time thereafter, the matter can be set down for a hearing.



## Hearing

Cases involving fees of \$3,000 or more are heard before panels of three members, usually composed of two lawyers and one public member. Fee committees have been composed of both lawyers and public members since April 1, 1979. Public member participation in the decision-making process is a particular strength of New Jersey's system. Hearings are scheduled on at least ten days' written notice. There is no discovery. However, all parties have the power of subpoena, subject to rules of relevancy and materiality. No stenographic or other transcript of the proceedings is maintained, except in exceptional circumstances at the direction of the Disciplinary Review Board (Review Board) or the Director, OAE. All proceedings are conducted formally and in private, but the strict rules of evidence need not be observed. If the total amount of the fee charged is less than \$3,000, the hearing may be held before a single attorney member of the committee. A written arbitration determination, with a brief statement of reasons annexed, is prepared usually within thirty days. The secretary mails the decision to the parties, who are notified of their rights to appeal to the Review Board.

# Arbitration Flowchart

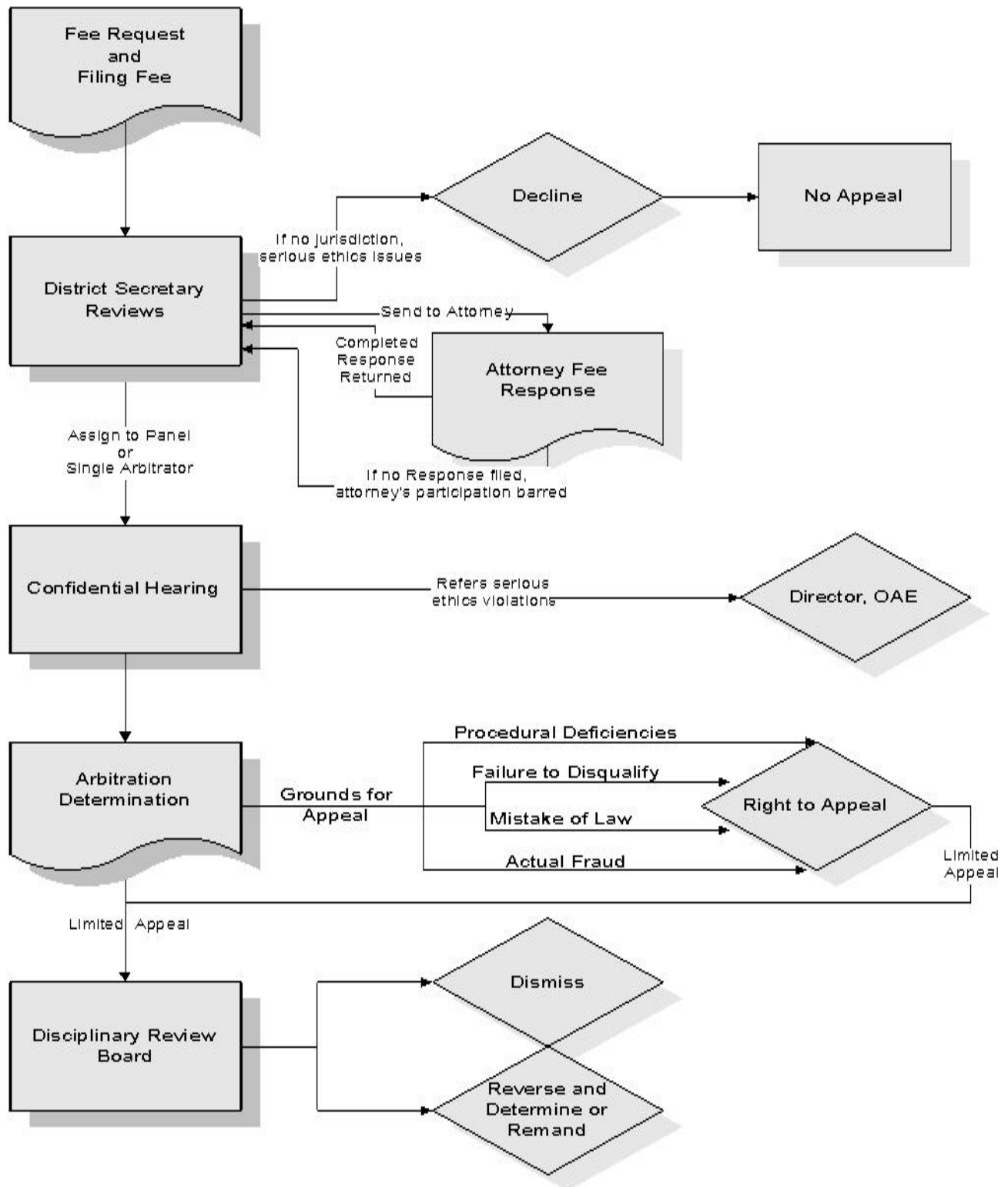


Figure 23





## Appellate Review

A limited right of appeal to the Review Board is provided. The grounds for appeal are as follows:

- ☐ Failure of a member to be disqualified in accordance with *R. 1:12-1*;
- ☐ Failure of the committee to substantially comply with mandatory procedural requirements;
- ☐ Actual fraud on the part of any member of the committee, or
- ☐ Palpable mistake of law by the Fee Committee, which mistake has led to an unjust result.

Either the attorney or the client may take an appeal within 21 days after receipt of the fee committee's written determination by filing a notice of appeal in the form prescribed by the Review Board. Timely filing of a notice of appeal acts as an automatic stay of execution on any judgment obtained on the fee committee's determination. All appeals are heard by the Review Board on the record. Its decision is final. There is no right of appeal to the Supreme Court of New Jersey.

**Figure 23** shows a flowchart of the process, from initiation of fee arbitration, through docketing, hearing, decision and a limited appeal to the Review Board.



## Fee Dispute Filings

Fee arbitration filings decreased by 7.1% in 2003, to 1,157 from 1,246 in 2002. Last year there was a 6.6% increase in filings (1,246) from 2001's total of 1,168 additions. **Figure 24.**

The number of filings has shown a 10% decrease since 1999 when a total of 1,289 new fee matters were docketed. Overall, filings have decreased by 10.2% over the last five years. This decline in filings in the past five years is largely attributable to the increased screening authority given to fee secretaries in 1995 under Rule 1:20A-2(d), which provides that the fee secretary shall have the authority in the first instance to resolve all questions of jurisdiction. Rather than accepting filing fees and docketing matters of questionable jurisdiction, only to have these matters later dismissed by the committee for lack of jurisdiction, the fee secretaries have become more pro-active in exercising their jurisdictional review function under this rule. This heightened sensitivity to jurisdictional issues not only protects the parties from the payment of unnecessary filing fees where the committees obviously lack jurisdiction (for example where the fee was previously determined

Changes In Fee Disputes			
Year	Filings	Change	Overall
2003	1,157	-7.1%	-10.2%
2002	1,246	6.6%	
2001	1,168	-5.2%	
2000	1,232	-4.4%	
1999	1,289	--	

**Figure 24**

by court order), but it helps to ensure efficient use of valuable committee time.

Fee arbitration remains a very popular alternative to civil litigation. Lawyers are required to specifically notify clients of the availability of fee arbitration as a prerequisite to filing a lawsuit to recover a fee. R. 1:20A-6. As a result, clients are aware of and continue to take advantage of the fee arbitration system. This is not surprising since fee arbitration presents a simple, less threatening and more expeditious alternative to civil litigation.



## Types of Cases Filed

The type of legal matter handled is a primary factor in determining which clients will resort to fee arbitration. Domestic relations matters (including matrimonial, support and custody cases) generate the most fee disputes. **Figure 25.** During 2003, 41.2% of all fee disputes filed arose out of this type of practice. This represents an increase over domestic relations cases filed a year earlier when they accounted for 37.5% of all filings. Historically, family actions have always ranked first in this category. Given the extreme emotional and often volatile nature of these matters, this statistic is not surprising. Efforts in this state are ongoing to minimize fee disputes in this area. In 1982, the Supreme Court adopted *R. 1:21-7A* regarding retainer agreements in family actions. That rule required all such agreements for legal services to be in writing and signed by both the lawyer and the client. The rule further provided that a signed duplicate copy of the fee agreement be delivered to the client. In 1999, an even more comprehensive rule was adopted, *R. 5:3-5*, which continues the written fee agreement requirements of the former rule. In addition, this new rule requires that the agreement must provide for periodic billing at least every 90 days and that the agreement have annexed a statement of client's rights and responsibilities. It also prohibits charging "non-refundable retainers and the holding of mortgages or other liens on clients' property to secure a fee in family actions."

New Jersey became the first state in the nation to adopt the American Bar Association's Model Rules of Professional Conduct in 1984. Under *RPC 1.5(d)* contingent fees may not be based on securing a divorce, the amount of alimony or support, or the amount of the property settlement reached. This prohibition is also included under new *R. 5:3-5*.

Moreover, *RPC 1.5(b)* governing "Fees," as modified for adoption in New Jersey, insures communications on all fees between lawyers and clients at the inception of the relationship. The New Jersey rule provides that, not only in matrimonial matters, but also in all actions:

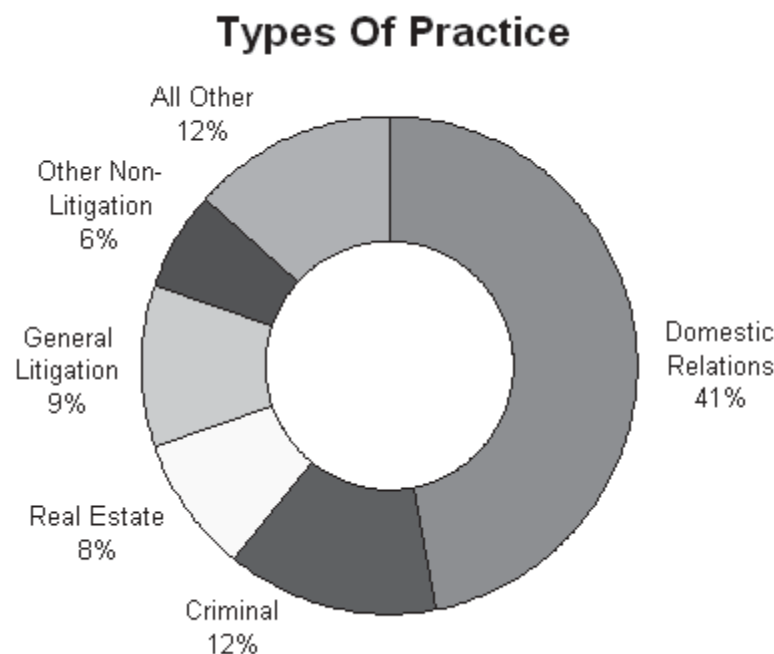


Figure 25

When the lawyer has not regularly represented the client, the basis or rate for the fee shall be communicated in writing to the client before or within a reasonable time after commencing the representation.

Criminal matters (including indictable, quasi-criminal and municipal court cases) and “other litigation” matters rank second and third in frequency of generating fee arbitration proceedings. Criminal cases account for 12.3% of all fee disputes filed, down slightly from 13.5% last year. As with matrimonial cases, contingent fees are prohibited as a matter of policy in criminal cases. The “General Litigation” category amounts to 9.2% of new filings in 2003, compared to 8.7% last year.

Real Estate matters provided the fourth most frequent cause for fee arbitration filings at 7.8% versus 7.5% last year. The category of “Other Non-Litigation” disputes followed next at 5.5%, compared to 5.7% in 2002. Estate/Probate disputes involved 3.6% of filings; it stood at 4.7% in 2002. Contract matters were tied at 3.6% (4.1% in 2002), followed by bankruptcy/insolvency/foreclosure matters, at 2.6% versus 3.0% in 2002.

Rounding out the top ten, labor matters involved 2% of fee arbitration filings, with negligence cases at 1.9% and collection matters at 1.8%.



## Age of Caseload

Almost seven out of every ten (68.6%) fee disputes disposed of (1,243) in 2003 had an average age of less than 180 days. **Figure 26.** This remains about the same as the 68.1% figure for disposed cases during the same period in 2002. The percent of the oldest cases (i.e. those over one year old) increased from 9.7% in 2002 to 12.7% this year. Cases in the mid range – from 6 to 12 months of age – decreased from 22.3% last year to 18.7% this year.

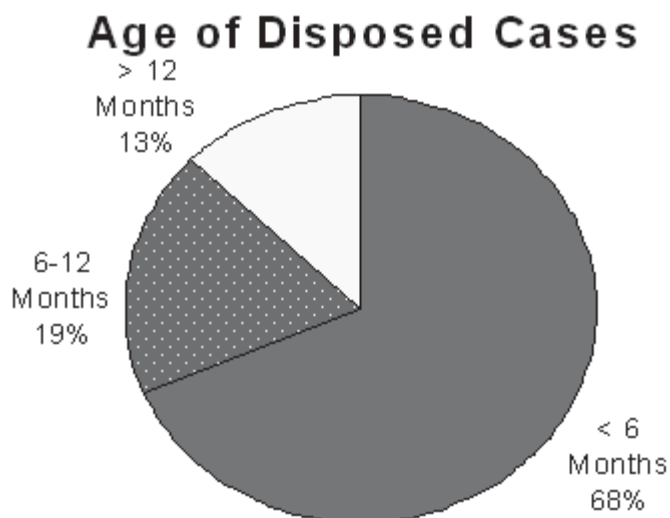


Figure 26

The overall average disposed age increased from 181 days in 2002 to 195 days for 2003.

At the end of calendar year 2003, there were a total of 509 cases pending. This compares to 595 matters at the conclusion of 2002. **Figure 27.**

Statewide Fee Caseload		
Pending 1/1/03		595
Filings	1,157	
Dispositions	1,243	
Pending 12/31/03		509
Figure 27		



## Nature of Dispositions

Of the 1,243 cases disposed of by fee committees in 2003, 91% were either arbitrated by fee committees (65% or 811 cases) or settled by the parties voluntarily (26% or 320 cases) after fee arbitration was initiated. The percentage of formal determinations for 2003 (65%) was virtually the same as the 64% in 2002. Settled matters comprised 26% of year 2003 dispositions, down slightly from 27% in 2002. Clients voluntarily withdrew almost 1.5 % of all cases disposed.

Fee committees declined to arbitrate 2% of all cases for jurisdictional reasons pursuant to *R. 1:20A-2*, where, for example, a court had already determined the fee to be reasonable or where the primary issues raised substantial legal questions in addition to the basic fee dispute. Less than one-half of one percent of all cases were transferred to a different district for hearing due to a conflict of interest on the part of a member of a fee committee or because the fee dispute was originally filed in the wrong district. The OAE disposed the remaining 4.9% of the cases primarily by administrative dismissal. Such dispositions occur for a variety of reasons, including death of an attorney or client, failure of a client to respond to repeated notices of hearing and repeated relocations by a client who was incarcerated in prison so as to make scheduling of hearings impractical.



## Monetary Results

Fee committees disposed of 1,131 cases (91% of all dispositions) through formal determinations and voluntary settlements by the parties. These cases involved total billings by New Jersey attorneys in the amount of \$18,244,802. This represents a 10% decrease over the 2002 total of \$20,384,260 settled or arbitrated.

During 2003, the committees conducted 811 hearings involving \$13,310,375 in total attorney's fees charged. In 33.4% of the cases (271 hearings), they upheld the attorney's fees in full. In the remaining 66.6% of the fee cases (540 hearings), they reduced the fees by a total of \$2,619,188, which represents 29.1% of the total billings subject to reduction.

Since the parties are not required to provide specific details in settled matters, available information is incomplete. In the 320 reported settlements the original billings totaled \$4,934,428. The clients agreed to pay the entire fee charged in only 25 (7.8%) of the 320 settlements. In the remaining 295 settlements, the attorneys and clients agreed to voluntarily reduce fees by 58.4%, or \$2,563,165.

The amount of reductions was specifically analyzed in ranges of from less than \$100 up to \$20,001 to \$50,000. In over 50.6% of the hearings resulting in a reduction, the dollar amount of the reduction was between \$251 and \$2,000. In settled matters, 35.3% of the cases involved reductions in the \$251 to \$2,000 range. The average bill in cases formally determined was \$16,412, while the average reduction in these matters was \$4,850.

In New Jersey, tort cases, including most negligence matters, have long been the subject of fee limitations. *Rule 1:21-7*, which has been in existence since 1971, requires written contingent fee agreements with clients in negligence matters and almost all other matters based on the tortious conduct of another. These contingent fees are subject to specific maximum limits, as follows:

- ▶ 33.3% on the first \$500,000 recovered;
- ▶ 30% on the next \$500,000 recovered;
- ▶ 25% on the next \$500,000 recovered;
- ▶ 20% on the next \$500,000 recovered; and
- ▶ on all amounts recovered in excess of the above, by application for reasonable fees.

Tort fees recovered for the benefit of a child or an incompetent are also subject to the limits above, if the fee is contingent. However, where the amount so recovered is by settlement without trial, the fee may not exceed 25%. As a result of the adoption of the Rules of Professional Conduct, all contingent fee agreements, regardless of type, must be in writing and must state the method by which the fee is to be determined. *RPC 1.5(c)*. Such agreements must specify the percentage accruing to the lawyer in the event of settlement, trial or appeal, whether litigation and other expenses are to be deducted from the recovery and whether such expenses are to be deducted before or after the contingent fee is calculated. At the conclusion of the case, the lawyer is required to provide the client with a written statement setting forth the outcome of the matter and, in cases where there is a recovery, the statement must show the remittance to the client and how that amount was determined.



## Conclusion

Attorney Fee Arbitration is a process that is being used effectively by lawyers and clients who have disagreements over the reasonableness of legal fees. In 2003, 1,157 new fee disputes were filed against New Jersey attorneys. This number represents 2.0% of the active New Jersey lawyer population (57,583). With hundreds of thousands of civil, criminal, equity, small claims and municipal court matters filed with the courts, and the hundreds of thousands of non-litigated matters (real estate transactions, wills, corporate, partnership and small business transactions, government agency matters, etc.) handled annually by New Jersey lawyers, it is clear that the number of fee arbitration matters filed is a very small percentage of the total number of attorney client transactions.



## District Fee Committees

The New Jersey fee arbitration system depends on attorney and public members serving on 17 regionalized district fee arbitration committees. As of September 1, 2003 there were 294 members of district committees serving pro bono across the state.

Following is a list of members who served on the Supreme Court's district fee arbitration committees for the 2003-2004.

	Term Expires		Term Expires
<b>DISTRICT I</b>			
(Atlantic, Cape May, Cumberland and Salem Counties)			
<b>Secretary:</b> Michael A. Pirolli of Bridgeton			
Gina Merritt-Epps, Chair of Atlantic City	2004	Russel B. Teschon of Midland Park	2006
Susan M. Korngut, Vice Chair of Northfield	2005	Lawrence A. Joel of Ordell	2006
Michael A. Gill of Northfield	2004	Frank LaRocca of Paramus	2007
Paul T. Chan of Atlantic City	2004	Debra F. Schneider of Glen Rock	2007
Dianna R. Williams-Fautleroy of Pleasantville	2004	Anne C. Skau of Ridgewood	2007
Stephen Barry of Wildwood	2004	Mary E. Eisenberg of Woodcliff Lake	2004
Charles J. Girard of Vineland	2004	Marlene B. Tarlowe of Montvale	2004
H. Parker Smith of Cape May Courthouse	2005	Anthony Sabino, Jr. of Paramus	2004
Karen Williams of Atlantic City	2006	Beth Politi of Montvale	2005
Robert C. Litwack of Bridgeton	2006	Joseph Tedeschi of Fair Lawn	2006
Elaine B. Frick of Pleasantville	2007	Betty Williams of Teaneck	2007
Michael M. Mulligan of Carneys Point	2007		
Michele C. Verno of Northfield	2007	<b>DISTRICT IIB</b>	
Mark L. Borowsky of Pleasantville	2004	(South Bergen County)	
Paul Kahane of Cold Spring	2004	<b>Secretary:</b> Michael J. Sprague of Hackensack	
Eileen Ballinghoff of Cape May Courthouse	2005	Paul C. Lomberg, Chair of Hackensack	2004
Al Gutierrez of Somers Point	2006	William J. Heimbuch, Vice Chair of Hackensack	2005
Kathy Arrington of Atlantic City	2006	Barry L. Kauffman of Hackensack	2004
Joan L. Clarke of Tuckerton	2006	John Whipple of Hackensack	2004
John M. Bettis of Pleasantville	2006	Wendy F. Klein of Hackensack	2005
Catherine J. Arpino	2007	Ellen W. Smith of Hackensack	2005
		Menelaos W. Toskos of Hackensack	2006
<b>DISTRICT IIA</b>		Ira C. Kaplan of Hackensack	2006
(North Bergen County)		Peter V. Moore of Wood Ridge	2006
<b>Secretary:</b> Terrence J. Corrison of Hackensack		David M. Kohane of Hackensack	2006
Jonathan Remshak, Chair of Hackensack	2004	Irwin S. Markowitz of Englewood Cliff	2006
Joel J. Reinfeld, Vice Chair of Ridgewood	2005	Alice W. Meehan of Hackensack	2007
Jeffrey B. Steinfeld of Hackensack	2005	Daniel P. McNerney of Hackensack	2007
Charles J. Lange, Jr. of Palisades Park	2005	Janell N. Weinstein of Hackensack	2007
Julia Barash of Hillsdale	2005	Henry B. Chernin of New Milford	2004
Dennis W. Blake of Montvale	2006	Evelyn M. Comer of Tenafly	2004
Robert E. Landel of Franklin Lakes	2006	Edward Garrett of Wood Ridge	2004
Colin M. Quinn of Westwood	2006	Anthony Scardino of Lyndhurst	2005
		Peter A. Michelotti of Fair Lawn	2006
		Suzanne DePuyt of Mahawah	2007
		Rosario J. Lazzaro of Cresskill	2007



<b>DISTRICT IIIA</b> (Ocean County)		<b>Term Expires</b>
<b>Secretary:</b> Lisa E. Halpern of Toms River		
Joan L. Murphy, Chair of Toms River		2005
Terry F. Brady, Vice Chair of Toms River		2006
Philip G. Pagano of Red Bank		2006
Michael T. Wolf of Toms River		2006
Linda S. Reimheimer of Toms River		2006
Claire M. Calinda of Toms River		2007
Joel A. Davies of Toms River		2007
Maria A. Stork of Forked River		2007
George D. Elliot of Lakewood		2004
Terry Moncrief of Toms River		2004
Ann Koukos of Forked River		2005
Charles W. Bowden of Smithville		2006

<b>DISTRICT IIIB</b> (Burlington County)		
<b>Secretary:</b> Christopher R. Musulin of Mt. Holly		
Alan Ettenson, Chair of Moorestown		2004
Marybeth F. Baron, Vice Chair of Mt. Holly		2005
Kevin E. Aberant of Moorestown		2005
Carolyn V. Chang of Mount Holly		2006
Donald N. Elsas of Willingboro		2006
Patricia A. Barasch of Moorestown		2007
Beth Ann Burton of Maple Shade		2007
Celise Lundy of Willingboro		2005
Louis Cardis, Jr. of Florence		2006
Jennifer Miles of Burlington		2006
Rev. Willie James of Edgewater Park		2007
Kathleen Sweeney of Roebbling		2007

<b>DISTRICT IV</b> (Camden County)		
<b>Secretary:</b> Joel Schneider of Haddonfield		
Timothy Chell, Chair of Woodbury		2004
Rita S. Polonsky, Vice Chair of Audubon		2005
Peter A. Garcia of Mt. Ephraim		2004
Michael D. Fioretti of Cherry Hill		2005
Bruce P. Matez of Haddonfield		2005
Antoinette Falciani of Woodbury		2005
Scott H. Marcus of Turnersville		2005
Thomas G. Heim of Woodbury Heights		2005
Maury K. Cutler of Blackwood		2006
Daniel McCormack of Audubon		2006
Andrew B. Kushner of Cherry Hill		2006
Robert J. Adinolfi of Haddonfield		2007
Daniel M. Replogle, III of Camden		2007
Augusta Joy Pistilli of Woodbury		2007
Stacy L. Spinosi of Woodbury		2007
Peter M. Halden of Cherry Hill		2007
Steven Applebaum of Marlton		2004
Joseph J. Grassi of Somerdale		2004
Morton Batt of Cherry Hill		2005
Altheia Leduc of Voorhees		2006
Marie D. Fairchild of Haddonfield		2006
Frederick R. Linden of Mount Laurel		2006
Jeffrey Clark of Mantua		2007

<b>DISTRICT VA</b> (Essex County - Newark)		
<b>Secretary:</b> Robert A. Berns of Newark		
Michael Edelson, Chair of Newark		2004
Rosalyn Cary Charles, Vice Chair of South Orange		2006
Ingrid A. Enriquez of Newark		2004
Sharon K. McGahee of Newark		2004
Eileen A. Lindsay of Roseland		2006
Gustavo J. Perez of Newark		2006
Pamela M. Cerruti of Montclair		2006
Stanley A. Epstein of Newark		2007
Robert A. Fagella of Newark		2007
Robert M. Goodman of Newark		2007
Joan Wigler of Newark		2004
Valarie Davia of Maplewood		2005
Robert S. Perelman of W. Caldwell		2006
Louis V. Henston of Livingston		2007
Celia King of Maplewood		2007

<b>DISTRICT VB</b> (Essex County - Suburban Essex)		<b>Term Expires</b>
<b>Secretary:</b> David Schechner of West Orange		
Carlia M. Brady, Chair of West Orange		2004
Stuart I. Gold, Vice Chair of West Orange		2005
Rose Marie Sardo of Newark		2005
Jeffrey George Paster of West Orange		2005
Sherri Davis Fowler of West Orange		2005
Bruce Levitt of South Orange		2006
Pamela C. Mandel of Millburn		2006
Stewart M. Leviss of West Orange		2007
Domenic D. Toto of Roseland		2007
Peter J. Vazquez, Jr. of Florham Park		2007
George Watson, Jr. of Maplewood		2004
Louis Wiener of Short Hills		2005
Walter Pagano of Warren		2005
Arthur Fischman of West Orange		2007
David Rothschild of Maplewood		2007

<b>DISTRICT VC</b> (Essex County - West Essex)		
<b>Secretary:</b> Anne K. Franges of Newark		
Regina Waynes Joseph, Chair of East Orange		2004
Raymond Kramkowski, Vice Chair of Fairfield		2005
H. Jonathan Rubinstein of Millburn		2004
Edward R. McMahon of Roseland		2004
Harry Frieland of Livingston		2004
Floyd Shapiro of Roseland		2005
Barbara S. Fox of Cranford		2006
Daniel J. Jurkovic of Verona		2006
Eleonore K. Cohen of Springfield		2006
Bryan Blaney of Roseland		2007
Leslie A. Lajewski of Roseland		2007
Sherry Gale Chachkin of Hackensack		2007
Kenneth F. Mullaney, Jr. of Fairfield		2007
Thomas Tipaldi, Jr. of Cedar Grove		2004
Katherine Slattery of Caldwell		2004
Robert Fischbein of Short Hills		2006
Joel Feldstein of Livingston		2006
Hilda L. Jaffe of Verona		2007
Laurena G. White of Montclair		2007

<b>DISTRICT VI</b> (Hudson County)		
<b>Secretary:</b> Marvin R. Walden, Jr. of West New York		
Manuel Garcia, Chair of Guttenberg		2004
Marlene Caride, Vice Chair of Union City		2005
Eloisa V. Castillo of Union City		2004
Bart G. Mongelli of Teaneck		2004
Lisette Castelo of Fort Lee		2006
James C. Dowden of Secaucus		2006
Gerald J. Lepis of Jersey City		2007
Thomas M. Venino, Jr. of North Bergen		2007
Lynn Arricale of Weehawken		2005
Rocco Crincoli of Jersey City		2006
Wanda Moreno of Union City		2006
Corrado Belgiovine of Jersey City		2007

<b>DISTRICT VII</b> (Mercer County)		
<b>Secretary:</b> David A. Saltman of East Windsor		
Dale E. Console, Chair of Kingston		2004
Sahbra Smook Jacobs, Vice Chair of East Windsor		2005
Kevin M. Shanahan of Pennington		2005
Jose Miguel Ortiz of Trenton		2005
Katherine Benesch of Princeton		2006
Patricia M. Graham of Princeton		2006
Howard L. Felsenfeld of Mercerville		2007
Ingrid D. Johnson of Princeton		2007
Howard S. Rednor of Trenton		2007
Kathy Dillione of W. Trenton		2005
Stephen K. Shueh of Princeton		2006
Tracey A. Destribats of Hamilton		2007
Edmund K. Stoy of Ewing		2007



<b>DISTRICT VIII</b> (Middlesex County)	
<b>Secretary:</b> William P. Isele of Milltown	
Robert D. Campbell, Chair of Colonia	2004
James B. Smith, Vice Chair of Metuchen	2005
Rhinold L. Ponder of New Brunswick	2004
James Dudley of Metuchen	2004
James P. Fitzgerald of Dunellen	2005
Barry E. Rosenberg of Bound Brook	2005
Eric Schwab of Woodbridge	2006
Guillermo R. Arango, Jr. of New Brunswick	2007
Arlene R. Green of Colonia	2007
Gregory B. Pasquale of Princeton	2007
Edward J. Ramp of East Brunswick	2007
Deborah A. Rose of Edison	2007
Nancy Muniz of Edison	2004
Juan J. Tenreiro of Edison	2005
Kerny Kuhltau of Piscataway	2006
Mary Martin of Middlesex	2006
Louise G. Cangelosi of Woodbridge	2007
Navin Jiwnani of Greenbrook	2007
Charles F. Shaughnessy of Colonia	2007

<b>DISTRICT IX</b> (Monmouth County)	
<b>Secretary:</b> Robert J. Saxton of Wall Township	
James N. Butler, Jr., Chair of Asbury Park	2004
Gregory S. Baxter, Vice Chair of Shrewsbury	2006
Christine Giordano Hanlon of Edison	2005
Van Lane of Freehold	2005
Michele C. Bowden of Red Bank	2006
C. Martin Goodall of Little Silver	2006
Michael I. Halfacre of Little Silver	2006
Stafford W. Thompson of Red Bank	2006
Kevin Wigenton of Red Bank	2006
Robert J. Boland of Morganville	2007
Michael Richard DuPont of Red Bank	2007
Jeanette Pappas of Spring Lake	2007
Leslie S. Vincent of Middletown	2007
Richard W. Hogan of Ocean Grove	2007
Rev. David J. Parreott, Jr. of Asbury Park	2004
Charles Abate of Imlaystown	2004
Elaine Wilcher of Asbury Park	2005
Denise A. Cleriouzio of Holmdel	2006
Joseph E. Bennett of Neptune	2006
Linda O. Hochman of Shrewsbury	2006
Diane Traverso of West Allenhurst	2006
Michelle Ragula of Manalapan	2006
Michael A. Tartza of Wall	2006
Lyndia Valencia of Lakewood	2007

<b>DISTRICT X</b> (Morris & Sussex Counties)	
<b>Secretary:</b> Melinda D. Middlebrooks of Parsippany	
Karin Haber, Chair of Florham Park	2004
Ann M. Edens, Vice Chair of Chester	2005
Thomas C. Pluciennik of Morris Plains	2004
Michael Wright of Morristown	2005
Fred Semrau of Boonton	2006
Mallory Steinfeld of Morristown	2006
Mark A. Bount of Chester	2007
Robert L. Gaynor of Succasunna	2007
Allan J. Iskra of Parsippany	2007
Aron M. Schwartz of Woodbridge	2007
Arthur J. Shulman of Livingston	2007
Leonard C. Walczyk of Millburn	2007
Samuel E. Bleecker of Millington	2004
John Paoloni of Denville	2004
Peter J. Tol of Far Hills	2006
Bernard B. Verosub of Rockaway	2006
Catherine S. Litwin of Morristown	2007
Dan Vinod of Morristown	2007

**DISTRICT XI**  
(Passaic County)  
**Secretary:** Anthony Benevento of Totowa Boro

<b>Term Expires</b>	
Kevin P. Harrington, Chair of North Haledon	2004
Linda Couso Puccio, Vice Chair of Wayne	2005
Joaquin Calcines, Jr. of Paterson	2004
Norberto H. Yacono of Paterson	2004
Lucinda A. Long of Wayne	2004
Jane E. Salomon of Paterson	2005
Richard A. Shackil of Paterson	2005
Randall Chiocca of Parsippany	2005
Irene Mecky of Totowa	2006
Amato A. Galasso of Ridgewood	2006
Kristin M. Corrado of Totowa Boro	2007
William S. Taylor of Clifton	2007
Sam Jarkesy of Wayne	2004
Brenda Adams of Wayne	2004
Yoland Simmons of Paterson	2007
Millie Santiago of Clifton	2007
Angelo Lobosco of W. Paterson	2007
Carmine Maggio of Clifton	2007

<b>DISTRICT XII</b> (Union County)	
<b>Secretary:</b> Carol A. Jeney of Scotch Plains	
Gianfranco A. Pietrafesa, Chair of Summit	2005
Robert L. Munoz, Vice Chair of Clark	2005
Elizabeth A. Weiler of Cranford	2004
Alberto Ulloa of Elizabeth	2004
Amirali Y. Haidri of Union	2005
Ronald A. Cohen of Roselle Park	2006
Manuel P. Sanchez of Elizabeth	2006
Ronald R. Silber of Cranford	2006
Barbara S. Worth of Union	2006
Mitchell H. Portnoi of Clark	2006
John M. Boyle of Westfield	2007
Michael F. Brandman of Cranford	2007
Cary R. Hardy of Summit	2007
Susan C. Taylor of Summit	2007
Lois R. Goering of Elizabeth	2004
James C. Bishop, Jr. of Scotch Plains	2004
Ralph Speduto of Union	2004
Marc Kelley of Cranford	2005
Sonya Pearson of Elizabeth	2006
Mary N. Cooper of Summit	2007
Linda B. Hander of New Providence	2007

<b>DISTRICT XIII</b> (Hunterdon, Somerset & Warren Counties)	
<b>Secretary:</b> Stuart C. Ours of Washington	
Brian M. Cige, Chair of Somerville	2004
James Scott DeMasi, Vice Chair of Phillipsburg	2005
Roy Stevens of Bridgewater	2004
Charles Z. Schalk of Somerville	2005
Kurt G. Ligos of Hackettstown	2005
Thomas S. Ferguson of Phillipsburg	2006
Joanne Byrnes of Flemington	2007
Eliot M. Goldstein of Warren	2007
Gale S. Wachs of Bridgewater	2005
Dorothy J. Pesaniello of Washington	2006
Marjorie L. Rand of Martinsville	2006
Andrae Wood of Lebanon	2007



# **RANDOM AUDIT COMPLIANCE PROGRAM**

**Chapter Four**



**“A lawyer’s character is not to be determined by his transactions strong but by his dealings with the weak. It is not the integrity of compunction, but the moral fiber revealed in the midst of temptation the true measure of a man.”**

**Chief Justice Arthur T. Vanderbilt**  
*In re Honig*, 10 N.J. 252, 259 (1952)



## Countrywide Leadership

For more than twenty years, New Jersey has been a leader nationally in developing programs that pro-actively protect the public and educate attorneys on proper fiduciary financial responsibility. Created in 1978, New Jersey's Random Audit Compliance Program began to conduct financial audits of private law firms that handle clients' trust funds in 1981. All private law firms in this state are required to maintain trust and business accounts in their private practices and are subject to random audit reviews for accounting compliance.

These trust and business banking accounts are required to conform to a detailed record-keeping rule, Rule 1:21-6 that specifies how lawyers are to handle trust monies. That rule, together with generally accepted accounting principles, Rule of Professional Conduct 1.15, case law and advisory opinions, provides guidance to lawyers on how to fulfill their fiduciary responsibilities in safekeeping clients' trust monies and other property.

Drawing on New Jersey's lead in this field, in 1992 a special American Bar Association Commission on the Evaluation of Disciplinary Enforcement recommended that random audits be encouraged across the country. That commission, which spent two years studying how to make attorney discipline more effective nationally, found an undercurrent of repeated and unreported misuses of client trust funds. The commission noted the following scenario, which often led to the failure of clients to report thefts:

"Clients who become aware that their funds have been stolen are often unwilling to report the misconduct because they are negotiating with the lawyer to retrieve their money.

\*\*\*\*

The lawyer then steals from another client to pay the settlement. Since the lawyer's trust account is not subject to audit without a complaint being made, the thefts continue and the amount stolen grows."

Lawyer Regulation for a New Century, American Bar Association (1992) at page 76.



Figure 28

The result of this “Robbing Peter to Pay Paul” syndrome is that the pyramid of speculation continues by the lawyer unabated. What is needed, the commission concluded, is a pro-active method of interrupting this cycle of silence. A year later, the American Bar Association House of Delegates agreed and adopted the commission’s recommendation. The American Bar Association has developed a Model Rule that allows random audits of lawyers without having any specific basis to first believe that misconduct had occurred.

New Jersey is the largest state in the country to operate a pro-active random auditing program to regularly check how law firms are handling clients and their trust funds. New Jersey’s program is also the largest in the country, with an experienced staff of five full-time random auditors and one support staff member. The Random Audit Program is conducted under the auspices of the Supreme Court’s Office of Attorney Ethics (OAE). Only six other states in the country have operational Random Audit Programs. **Figure 28.**

The first audit was conducted in July 1981. From 1981 through 2003, the program has conducted 8,045 audits of New Jersey law firms and their trust and business accounting records. The most current information available regarding the number of law firms practicing in New Jersey is based on the 2002 Attorney Registration Statement. (**Chapter 5**). Approximately 54 percent, or 7,659 of the 14,102 estimated law firms, were audited as of 2002, the latest year for which the number of New Jersey law firms was available. Analysis of these total figures shows that 5,484 or 52% of the 10,488 solo practice firms and 2,175 or just over 60% of the 3,614 larger law firms consisting of two or more attorneys were audited as of 2002.

The program results show that the overwhelming majority of New Jersey law firms (98.8%) account for clients’ funds without incident. While the random program identifies minor record keeping deficiencies, the program also educates lawyers about the causes of these deficiencies, as well as how they may be corrected. Practitioners then make corrections and certify their compliance in writing. Serious ethical misconduct has only been detected in approximately 1.2% of all audits conducted. These incidents are detailed at the end of this chapter.

*“I would like to personally thank (your auditor) for taking the time to give me some advice on how to “streamline” my monthly reconciliation process in regard to my computer program and monthly bank statements. I followed (the auditor’s) advice and I have been able to cut the time in half it takes me to perform my monthly reconciliation statement using my computer program and bank statement.*

A BERGEN COUNTY CERTIFIED CIVIL TRIAL ATTORNEY



## Random Audit Purposes

The Random Program serves multiple purposes in New Jersey. The central purpose is to educate law firms on the proper method of fulfilling their fiduciary obligations to clients. In this state this means making sure every law firm knows how to maintain records of clients’ funds in accordance with *Rule 1:21-6*. Unquestionably, law firms owned by sole proprietors benefit most from this rule. Perhaps this explains the overwhelming support the program has experienced from practitioners and the bar of this state. By educating lawyers to



proper fiduciary procedures, accounting errors resulting from faulty methodology can be detected and corrected early, perhaps before an unknowing misappropriation occurs.

The second purpose underlying random audits is a by-product of the first: deterrence. Just knowing that there is an active auditing program is an incentive, not only to keep good records, but also to avoid temptations to misuse trust funds. While not quantifiable, the deterrent effect on those few lawyers who might be tempted otherwise to abuse their clients' trust is undeniably present.

Finally, random audits serve the purpose of detecting misappropriation in those relatively small number of law firms where it occurs. Since the random selection process results, by definition, in selecting a representative cross-section of the New Jersey Bar, a few audits inevitably uncover lawyer theft, even though this is not the primary purpose of the program.



## Audit Selection, Standards and Scheduling

One of the keys to the integrity of the random program lies in the assurance that no law firm is chosen for audit except by random selection. Webster's Dictionary defines "random" as "lacking or seeming to lack a regular plan; chosen at random." The actual New Jersey selection is randomly made by computer. The selection utilizes the main law office telephone number provided by attorneys on their Annual Attorney Registration Statement (**Chapter 5**) as an identifier for the law firm in the random selection process. The selection is made on a statewide basis and not by county. The Supreme Court approved this methodology in 1991 as the fairest and most unbiased selection process possible, because it insured that each law firm has an equal chance of being selected.

The New Jersey Record Keeping *Rule 1:21-6*, is the measuring standard for all audits. Combined with Rule of Professional Conduct 1.15, case law, advisory opinions and generally accepted accounting principles, the New Jersey attorney trust and business accounting requirements are the most detailed in the country. All attorneys who practice law privately are required to maintain a trust account for all clients' funds entrusted to their care and a separate business account into which all funds received for professional services must be deposited. All trust accounts must be uniformly and prominently designated "Attorney Trust Account." All business accounts must be prominently designated as either "Attorney Business Account," "Attorney Professional Account" or "Attorney Office Account".

The Record Keeping Rule provides that attorneys maintain receipts and disbursements journals. The records of all deposits and withdrawals must identify the date, source or payee, and a description of each item that is issued to support trust and business account transactions. Additionally, a separate ledger book must be maintained with a separate page for each trust client, showing the source of all funds deposited, the name for whom the funds are held and the amount, as well as the charges to or withdrawals from such accounts, and the names of all persons to whom such funds are disbursed.

All disbursements must be made to a specific payee and never to cash. All outgoing electronic fund transfers must be preceded by written authorization to the financial institution and signed by an attorney. Withdrawals by ATM cards are prohibited, as is protection against trust overdrafts. A regular trial balance of the individual client trust ledger is to be maintained and a full reconciliation must be made with all bank statements on a monthly basis. All attorneys must likewise have copies of all retainer and compensation agreements with clients and all bills rendered to clients, copies of all statements to clients showing disbursement of funds to them or on their behalf, and copies of all records showing payments to attorneys, investigators or other persons not in their regular employ, for services rendered or performed. The rule further directs that the books and records specified above must be maintained in accordance with "generally accepted accounting practice." Moreover, the rule states that all required books and records must be maintained for a period of seven years. All required

records must be made available for inspection by random audit personnel. The confidentiality of all audited records is maintained at all times.



New Jersey uses a statewide approach to audit selection. Once an annual, statewide selection has been made, scheduling of audits generally proceeds in the order of selection. Random audits are always scheduled in writing ten days to two weeks in advance, so as not to unduly interfere with the law firm's work schedule. At the outset of the program some attorneys argued that audits could only be effective if they were unannounced, surprise audits. Many members of the bar pointed out, however, that unscheduled audits would also be a surprise to clients who happened to be in the audited attorney's office as well. Thus, the audits could be a disservice to the immediate clients as well as a total disruption of the law firm's daily, planned business activities. This would be particularly true for the sole practice firm. The total program experience to date indicates that announced audits do not interfere with the auditor's ability to detect either Record Keeping deficiencies or serious trust violations where they exist.

While the audit date originally scheduled is firm, requests for adjournments are given close attention. The selected law firm is advised in the scheduling letter to have available all records required under Rule 1:21-6, including bank statements canceled checks, checkbook stubs, duplicate deposit slips and receipts and disbursements journals for both the business and trust account covering a two year period.

*"We very much appreciated the courtesy and professionalism of (your auditor) in conducting the random audit of our records."*

A MULTI-MEMBER CAMDEN LAW FIRM



## Conference Audit Review and Exit Interview

After arriving at the law firm, the auditor conducts an initial interview with the managing attorney in order to determine the general nature, type and volume of the practice, as well as the general format of existing records. In this regard, it is helpful to find out whether the firm regularly engages the services of an accountant or bookkeeper and the purposes therefore. Likewise, all persons who have signatory authority over the trust and business accounts must be determined; special note is made if any non lawyer is authorized

to sign checks on the firm's trust account. Next, the auditor seeks to determine whether the law firm members serve as a specific fiduciary, such as executor, trustee, guardian or receiver on any accounts; whether negotiable or other valuables, other than money, are held for clients; whether collections on mortgages or other investments are made on behalf of clients; whether the law firm members or a related person are indebted to a client; whether the firm members are participants in business ventures with clients and whether interest is earned on trust funds and, if so, whether it is properly apportioned to applicable clients. The auditor then conducts a physical inspection of the required books and records for both the trust and business accounts.

The heart of the review and audit is the examination and testing of the law firm's financial record keeping system. Are the trust and business accounts properly designated? Does the firm maintain receipts and disbursements journals? Are there client ledger sheets to support each trust client? Are all entries and withdrawals descriptive enough? Is a monthly reconciliation of the bank statement made with the checkbook balance, and is this checkbook balance then further reconciled to the schedule of individual client trust ledger accounts? During the course of the audit, a reconciliation of the checkbook balance is actually made by the auditor to the last monthly bank statement. Additionally, a further reconciliation to confirm the current schedule of individual client ledgers is made to see that no individual client's funds have been overdrawn. Technically, the auditor subjects the law firm's records to a limited scope review by selectively testing transactions. During the course of the review and audit, the canceled checks for several months are reviewed to determine if there have been any trust checks written for personal or business expenses. The checks are also scrutinized to see whether those written to clients have been endorsed back to an attorney for some purpose. Any checks returned for insufficient funds are, of course, noted and an explanation required. Monthly bank statements are then analyzed for a minimum period of two years to determine whether any overdrafts or negative balances are apparent for which an appropriate explanation is required.

At the conclusion of the audit, which averages one full day for the typical small-firm practitioner, the auditor offers to confer with the managing attorney in an exit conference to review and explain the findings. Since the principal objective of the audit program is compliance with the Record Keeping Rule, the exit conference represents perhaps the most important part of the audit. It is here that the law firm is made aware of any accounting shortcomings, as well as findings and weaknesses in the present financial operation. The managing attorney is given a deficiency checklist, which highlights necessary corrective action. Even where there are no corrections necessary in order to bring the firm into compliance with the Record Keeping Rule, the auditor may suggest improvements that will make the firm's job of monitoring client funds easier.



## Deficiency Notification

Within several weeks following the conclusion of the audit, a written deficiency letter is forwarded to the law firm describing any shortcomings for which corrective action is necessary. The firm is required to make all corrections within 45 days of the date of the letter and then must certify in writing within that time period that all corrective actions have, in fact, been completed. If the confirming letter is received from the attorney, the case is closed administratively. If program personnel do not receive a confirming letter, a final ten-day letter is sent advising the law firm that, if no confirming letter is received by the OAE within ten days stating that all necessary corrective action has been taken, a disciplinary complaint will issue. To date, it has been necessary to file only a few disciplinary complaints in New Jersey due to an attorney's refusal to correct deficiencies.

Discipline is uniformly imposed for such failures. *In re Macias*, 121 N.J. 243 (1990); *In re Henn*, 121 N.J. 517 (1990); and *In re Schlem*, 165 N.J. 536 (2000).

*“(W)e would like to commend the program...for conducting the audit in a professional, efficient, and educational manner.”*  
AN OCEAN COUNTY SOLE PRACTITIONER



## Random Audit Personnel

The Random Audit Program is conducted under the auspices of the Supreme Court’s OAE. The Random Audit Group consists of a Chief Auditor, who is both a lawyer and a Certified Public Accountant, an Assistant Chief Auditor, two Senior Random Auditors, one of whom is also a lawyer, and one Random Auditor. All auditors have had substantial private or public sector accounting experience. Secretary Elvira Pilla assists these individuals.

The Chief Auditor and all staff are appointed by the Director of the OAE, subject to the approval of the Chief Justice of the Supreme Court of New Jersey. Random audit personnel serve on a fulltime basis. All random audits are performed in-house. The use of full-time, experienced auditors insures the development of expertise in legal practice, uniformity of audit approach and, also, maximizes the ability to detect misappropriations when they occur.

*Chief, Random Audit Program*

**Robert J. Prihoda**

**of Hamilton Township**

B.S. Trenton State College 1977

J.D. Rutgers School of Law Camden 1993

Joined OAE 1981

### **Accounting Experience:**

Auditor, Division of Taxation, New Jersey Transfer Inheritance Tax Bureau (1978-79);

Auditor, Administrative Office of the Courts, Trust and Special Funds (1979-81).

### **Related Experience:**

Certified Public Accountant for New Jersey; Member American Institute of Certified Public Accountants; Admitted to New Jersey and Pennsylvania Bars (1993).

*Assistant Chief Random Auditor*

**Mary E. Waldman**

**of Yardley**

B.S. Rider University 1984

Joined OAE 1988

### **Accounting Experience:**

Auditor, New Jersey National Bank (1984-85); Senior Audit Examiner, First Fidelity Bank (1986-88).

*Senior Random Auditor*

**Mimi Lakind  
of Wayne**

B.A. Summa Cum Laude  
William Paterson College 1978

M.A. Magna Cum Laude  
William Paterson College 1985

J.D. Cum Laude  
Seton Hall University School of Law 1993  
Joined OAE 1984

**Accounting Experience:**

Bookkeeper, I. Mirsky & Co. (1972-76); Accountant, Global Distributors, Inc. (1977-81);  
Accountant, Lowenstein, Sandler, Brochin, Kohl, Fisher and Meanor, Esqs. (1982-83).

**Related Experience:**

Admitted to New Jersey and Pennsylvania Bars (1993); Member, American Mensa Limited.

*Senior Random Auditor*

**Karen J. Hagerman  
of West Long Branch**

B.A. Monmouth University 1991  
Joined OAE 1995

**Accounting Experience:**

Auditor, New Jersey Natural Gas Co. (1987-90); Senior Auditor, Midlantic Bank, N.A. (1990-95).

*Random Auditor*

**Joseph R. Strieffler, Jr.  
of Levittown**

B.A. Holy Family College 1995  
Joined OAE 1998

**Accounting Experience:**

Billing Specialist, Keystone Health Plan East (1993-95); Financial Analyst, Independence Blue Cross (1995-98).



## Trust Accounting Education

As an integral part of the random program, New Jersey has developed a systematic process for educating all lawyers on proper trust and business accounting procedures. Since 1987, the Supreme Court mandates that each newly admitted attorney take a three-hour course on this important subject. This course is given several times per year and is conducted by the New Jersey Institute for Continuing Legal Education.

In addition, the Director of the OAE has published a book entitled “Trust and Business Accounting for Attorneys (5th Edition 2003),” which is available to all attorneys directly from the Institute for Continuing Legal Education. This work has been cited with approval outside this state. The Board of Professional Responsibility



of the Supreme Court of Tennessee adopted the treatise in part in its Formal Ethics Opinion 89-F-121 entitled “The Mechanics of Trust Accounting.” The California State Bar also produced a handbook in 1993 based upon New Jersey’s work and the Attorney Registration and Discipline Commission of the Supreme Court of Illinois also received permission to use the New Jersey book in 2001 as the basis for its Client Trust Account Handbook.

Annually, all lawyers receive an attorney registration statement that requires all private practitioners to list their primary trust account and primary business account and to certify their compliance with the record keeping requirements of *Rule 1:21-6*. Included in that mailing almost every year is a reproduction of *Rule 1:21-6*.

The random program Jersey Attorney’s Guide to the Attorney Trust Accounts and 1996, that brochure is sent to all with the initial letter scheduling a brochure was mailed to all New 1997 Annual Attorney Registration

Finally, at the conclusion of audited are provided with a written Requirements Under *Rule 1:21-6*” program, this outline not only substantive accounting contains samples of all required client trust ledgers and the educational process, the seven key concepts (**Figure 29**) that help lawyers understand basic concepts about proper trust accounting procedures. These key concepts are explained in detail in the mandatory course required of all newly admitted attorneys. Additionally, these keys form the cornerstone of the “Trust and Business Accounting for Attorneys” book.



publishes a brochure entitled “New Random Audit Program and Record Keeping.” Beginning in private practice law firms, together random audit. In 1997 the Jersey admitted attorneys with the Statement.

each audit, all law firms randomly “Outline of Record Keeping Developed by the random includes a summary of the requirements, but, in addition, receipts and disbursement journals, reconciliation formats. As part of Director of the OAE has developed

## Key Concepts in Trust Accounting

- ◆ Separate Clients Are Separate Accounts
- ◆ You Can’t Spend What You Don’t Have
- ◆ Timing Is Everything
- ◆ Always Maintain an Audit Trail
- ◆ Trust Accounting Is Zero-Based Accounting
- ◆ There Is No Such Thing as a Negative Balance!
- ◆ You Can’t Play the Game Unless You Know the Score



Figure 29



## Disciplinary Action

The Random Audit Program is designed primarily to check compliance with the attorney Record Keeping Rules. Nevertheless, the staff of experienced auditors has uncovered a small, but significant, number of cases of lawyer theft and other serious financial violations.

During the twenty-two year period from July 1981, when audits first began, through December 31, 2003, serious financial misconduct by 104 attorneys were detected solely as a result of being randomly selected for audit. These attorneys received the following discipline for their violations: 55 attorneys were disbarred, 15 were suspended for periods of three months to two years, 25 were reprimanded, one was transferred to disability-inactive status and eight received admonitions. The vast majority of the matters detected were very serious disciplinary cases that resulted in disbarment or suspension. The disbarred (55) and suspended (15) attorneys account for 67% of the disciplined attorneys. A complete list of these disbarred or suspended attorneys is shown as **Figure 30**.

However, even this discussion does not begin to highlight the actual importance of the role of the random program over the past 22 years and the monies saved by the Lawyers' Fund for Client Protection (the Fund). To truly appreciate the effectiveness of the random program, one need only contemplate how many more millions of dollars these lawyers would have continued to misappropriate during this period if the program had not detected and disciplined them when it did. Moreover, deterrence is acknowledged to be a factor in all random-type programs (e.g. bank examiner's audits, DWI checkpoints, etc.). While it is not easy to quantify the number of attorneys who were deterred or the millions of dollars in thefts that were prevented due to a credible and effective Random Audit Program, the deterrent effect is, nevertheless, an important and undeniable component of the random effort.

During calendar year 2003, the Random Audit Program continued to detect and discipline a number of attorneys who committed serious ethical violations. The following five attorneys, detected solely by the program, were finally disciplined by Order of the Supreme Court this year. An additional number of attorneys detected by the program were temporarily suspended from practice pending full investigation of serious financial abnormalities.

- On January 9, 2003, Gary S. Friedmann of Burlington County was suspended for a period of three years. The Supreme Court of New Jersey found that he had engaged in a highly unethical fraudulent business transaction with a client. *In re Friedmann*, 175 N.J. 557.
- Daniel B. Zonies of Camden County was reprimanded by the Supreme Court of New Jersey on January 14, 2003 for improperly commingling over \$180,000 in personal funds in his attorney trust account. *In re Zonies*, 175 N.J. 106.
- Benjamin A. Silber of Salem County was Disbarred By Consent on March 10, 2003 by the Supreme Court of New Jersey. He admitted that he could not successfully defend himself against pending disciplinary charges alleging the knowing misappropriation of trust funds in an estate matter. *In re Silber*, 175 N.J. 552.
- On May 20, 2003 the Supreme Court of New Jersey Disbarred By Consent Charles D. Conway of Ocean County, who, on May 20, 2003, admitted that he could not successfully defend himself against pending disciplinary charges alleging knowing misappropriation of over \$600,000 in clients' trust funds. *In re Conway*, 167 N.J. 207.



- 
- David N. Buda from Bergen County was Disbarred By Consent by the Supreme Court of New Jersey on December 26, 2003. His disbarment form contained an admission that he could not defend knowing misappropriation charges against him. *In re Buda*, 167 N.J. 207.

## Serious Random Audit Discipline

<u>Attorney</u>	<u>County</u>	<u>Sanction</u>	<u>Citation</u>	<u>Year</u>
Alongi, Paul	Essex	Disbarment By Consent	119 N.J. 694	1988
Annellino, Nicholas M.	Hudson	Disbarment By Consent	149 N.J. 275	1997
Aurlemma, Robert C.	Morris	Disbarment By Consent	147 N.J. 508	1997
Bartow, Dennis M.	Essex	Disbarment	140 N.J. 191	1995
Bell, Daniel S.	Essex	Disbarment By Consent	162 N.J. 184	2000
Black, Douglas P.	Monmouth	Disbarment By Consent	144 N.J. 475	1996
Bernandez, Juliet O.	Hudson	Disbarment By Consent	138 N.J. 40	1994
Blumenshtyk, Larry	Morris	Disbarment	152 N.J. 158	1997
Boyd Jr., Andreas A.	Morris	Disbarment By Consent	112 N.J. 618	1988
Brasno, Andrew T., Jr.	Middlesex	Disbarment	171 N.J. 341	2002
Briscoe, John F.	Ocean	Disbarment By Consent	Unreported	1987
Bryant, Donald	Mercer	Disbarment By Consent	117 N.J. 676	1989
Buda, David H.	Bergen	Disbarment By Consent	178 N.J. 257	2003
Calise, Francis T.	Passaic	Disbarment By Consent	135 N.J. 78	1994
Callahan, John E.	Union	Disbarment	162 N.J. 182	1999
Camey, James F.	Essex	Disbarment	165 N.J. 537	2000
Carroll, Richard J.	Hudson	Suspension	162 N.J. 97	2000
Combes, Charles L.	Bergen	Disbarment By Consent	116 N.J. 778	1989
Conway, Charles D.	Ocean	Disbarment By Consent	167 N.J. 207	2003
Cronin, Clinton E.	Ocean	Disbarment	146 N.J. 487	1996
DLleto, Louis	Monmouth	Disbarment	142 N.J. 492	1995
Ewing, William J.	Essex	Suspension 12 Months	132 N.J. 206	1993
Franco, Leonard H.	Hudson	Disbarment By Consent	169 N.J. 386	2001
Frelmark, Lewis B.	Essex	Disbarment	152 N.J. 45	1997
Friedmann, Gary S.	Burlington	Suspension 3 Years	175 N.J. 557	2003
Gallo, James J.	Hudson	Suspension 3 Months	117 N.J. 365	1990
Gourley, Joseph J. D.	Passaic	Disbarment By Consent	131 N.J. 174	1993
Grady, John W.	Bergen	Disbarment By Consent	100 N.J. 686	1985
Haeblerle, M. Gene	Camden	Disbarment By Consent	105 N.J. 606	1987
Hahne, Richard H.	Essex	Disbarment By Consent	110 N.J. 701	1988
Helt, Jay G.	Monmouth	Disbarment By Consent	171 N.J. 29	2002
Heath, Steven E.	Monmouth	Disbarment By Consent	142 N.J. 483	1995
Henchy, Michael T.	Morris	Disbarment By Consent	138 N.J. 183	1994
Holden, Edward T.	Monmouth	Disbarment By Consent	155 N.J. 598	1998
Hollendonner, Anton	Mercer	Suspension 12 Months	102 N.J. 21	1985
Horton, Richard G.	Somerset	Disbarment By Consent	132 N.J. 266	1993
Houston, James F.	Monmouth	Disbarment	130 N.J. 382	1992
Hurd, Calvin J.	Union	Disbarment By Consent	98 N.J. 617	1985
Ishel, Albert L.	Middlesex	Suspension 6 Months	126 N.J. 217	1991
James, Charles H.	Cape May	Suspension 6 Months	112 N.J. 580	1988
Kern, Walter M.D., Jr.	Bergen	Disbarment By Consent	109 N.J. 635	1987
Knopka, Michael A.	Passaic	Suspension 6 Months	126 N.J. 225	1991
Kramer, Arthur B.	Union	Disbarment	113 N.J. 553	1989
LeBar, Geoffrey P.	Bergen	Disbarment	150 N.J. 14	1997
Lennan, John R.	Bergen	Disbarment	102 N.J. 518	1986
Librizzi, Victor, Jr.	Essex	Suspension 6 Months	117 N.J. 481	1990
May, Isadore H.	Atlantic	Suspension 12 Months	170 N.J. 34	2001
Mogck, John J., III	Burlington	Disbarment By Consent	130 N.J. 386	1992
Mysak, Charles J.	Passaic	Disbarment	162 N.J. 181	1999
Nitti, Louis J.	Essex	Disbarment	110 N.J. 321	1988
Perez, John	Essex	Suspension 24 Months	104 N.J. 316	1985
Ratliff, John H.	Somerset	Disbarment By Consent	126 N.J. 303	1991
Ross, Norman L.	Passaic	Disbarment By Consent	162 N.J. 193	2000
Ryle, Dion F.	Burlington	Disbarment	105 N.J. 10	1987
Saltzberg, Edwin F.	Camden	Disbarment By Consent	103 N.J. 700	1986
Schwartz, Ira A.	Passaic	Disbarment By Consent	134 N.J. 530	1993
Sederlund, Balne H.	Hudson	Disbarment By Consent	106 N.J. 651	1987
Siber, Benjamin A.	Salem	Disbarment By Consent	175 N.J. 552	2003
Spritzer, Henry M.	Middlesex	Disbarment By Consent	165 N.J. 520	2000
Stern, Morris J.	Essex	Suspension 6 Months	118 N.J. 59	1990
Tighe, Charles I., III	Burlington	Disbarment	143 N.J. 298	1996
Tompkins, Donald F.	Passaic	Suspension 3 Months	155 N.J. 542	1988
Untracht, Gary H.	Somerset	Disbarment	174 N.J. 344	2002
Vegel, Peter S.	Bergen	Disbarment By Consent	165 N.J. 202	2000
Waldron, James J., Jr.	Mercer	Disbarment By Consent	152 N.J. 18	1997
Warhaftig, Arnold M.	Union	Disbarment	106 N.J. 529	1987
Waters-Cabo, Shirley	Essex	Suspension	Unreported	1995
Wells, Harvey L.	Essex	Suspension 6 Months	118 N.J. 592	1990
Williams, Kenneth H.	Essex	Disbarment By Consent	117 N.J. 686	1989
Wright, William, Jr.	Essex	Disbarment	163 N.J. 133	2000

Figure 30



**CHARACTERISTICS  
of the  
NEW JERSEY BAR  
FOR YEAR 2003**

**Chapter Five**



**“When this court admits a person as an attorney, he is thereby the public as worthy of confidence in all his professional duties and in so presenting him, the court assumes a duty to guard the public against misuse to the detriment of the public. If thereafter unwelcome possession appears, it must be withdrawn to protect the public administration of justice.”**

**Associate Justice John J. Francis**  
*In re Pennica*, 36 N.J. 401, 434 (1962)



## Attorney Registration

An Annual Attorney Registration Statement (**Figure 31**) is sent to attorneys, together with the annual billing supporting attorney discipline and the Lawyers' Fund for Client Protection. The 2002 registration statement, authorized by *Rule 1:20-1(c)*, was mailed in 2002 and responses were tabulated on April 22, 2003.

The annual registration statistics in this chapter cover responses as of April 22, 2003. These totals, therefore, do not agree with the number of admitted or active attorneys used in the first four chapters, which are provided by the Fund, come from a separate database and report statistics as of December 31, 2003. Also note that in 2002, the registration database was updated through the Judiciary revised Central Attorney Management System. As a result, this year's data is more complete than in previous years.

**SECTION A: GENERAL INFORMATION FOR ALL ATTORNEYS**

1. SOCIAL SECURITY NO.\*  
\*Disclosure is voluntary [R.1:20-1(c)] for identification purposes.

2. DATE OF BIRTH

3. HOME ADDRESS:

CITY STATE Zip

COUNTRY FOREIGN POSTAL CODE

4. HOME TELEPHONE (U.S.A. ONLY):

5. List of all United States jurisdictions (excluding New Jersey and federal courts) where EVER LICENSED as lawyer:

Year State Year State Year State

6. Engages in the private practice of law in New Jersey: ☐ Yes ☐ No

**SECTION B: INFORMATION ONLY IF ENGAGED IN PRIVATE PRACTICE IN NEW JERSEY**  
(NOTE: If employed by more than one law firm, respond for your primary law firm employment.)

1. Engaged in the PRIVATE PRACTICE of law IN NEW JERSEY:

2. NAME of private practice in New Jersey can best be described as:

3. TOTAL NUMBER of attorneys employed by firm in New Jersey:

4. MAIN BONA FIDE LAW OFFICE PHONE (not a fax line) New Jersey:

5. PRIMARY BONA FIDE LAW OFFICE [R.1:20-1(a)] in New Jersey:

Firm Name  
Address  
Address  
City County State NJ Zip

6. I have read R.1:21-6 and R.1:28A. My law firm's trust and business accounts comply with these Rules. I understand that these accounts must be located **ONLY IN APPROVED NEW JERSEY INSTITUTIONS**.

**PRIMARY N.J. TRUST ACCOUNT** **PRIMARY N.J. BUSINESS ACCOUNT**

Account No. Account No.  
Bank Bank

**SECTION C: CERTIFICATION OF NO CHANGE**

I certify the information provided above has not changed. I certify this information is true and accurate. If any statements are false, I realize I am subject to discipline by the Supreme Court.

Date Attorney's Signature (OAE 2/01)

**INFORMATION IS CONFIDENTIAL UNDER R.1:20-1(e). FOR USE ONLY AS DIRECTED BY SUPREME COURT.**

Figure 31





## Year Admitted to the Bar

As of April 22, 2003, the attorney registration database counted a total of 78,083 attorneys. Information on year of admission was available for all 78,083 practitioners. Over sixty-six percent of all New Jersey attorneys (66.2%) were admitted to practice since 1986, while over seventy-seven percent (77.9%) were admitted since 1981. Eighty-five percent of all (85.6%) attorneys were admitted since 1976. These figures are graphically shown below and are statistically compiled to the right.

### YEAR ADMITTED

Year	Number	Percent
<1940	471	0.60 %
1941-1945	114	0.15 %
1946-1950	417	0.53 %
1951-1955	641	0.82 %
1956-1960	843	1.08 %
1961-1965	1,259	1.61 %
1966-1970	2,469	3.16 %
1971-1975	5,034	6.45 %
1976-1980	5,902	7.56 %
1981-1985	9,170	11.74 %
1986-1990	14,585	18.68 %
1991-1995	16,840	21.57 %
1996-2000	14,789	18.94 %
2001-2005	5,549	7.11 %
<b>TOTALS</b>	<b>78,083</b>	<b>100.00 %</b>

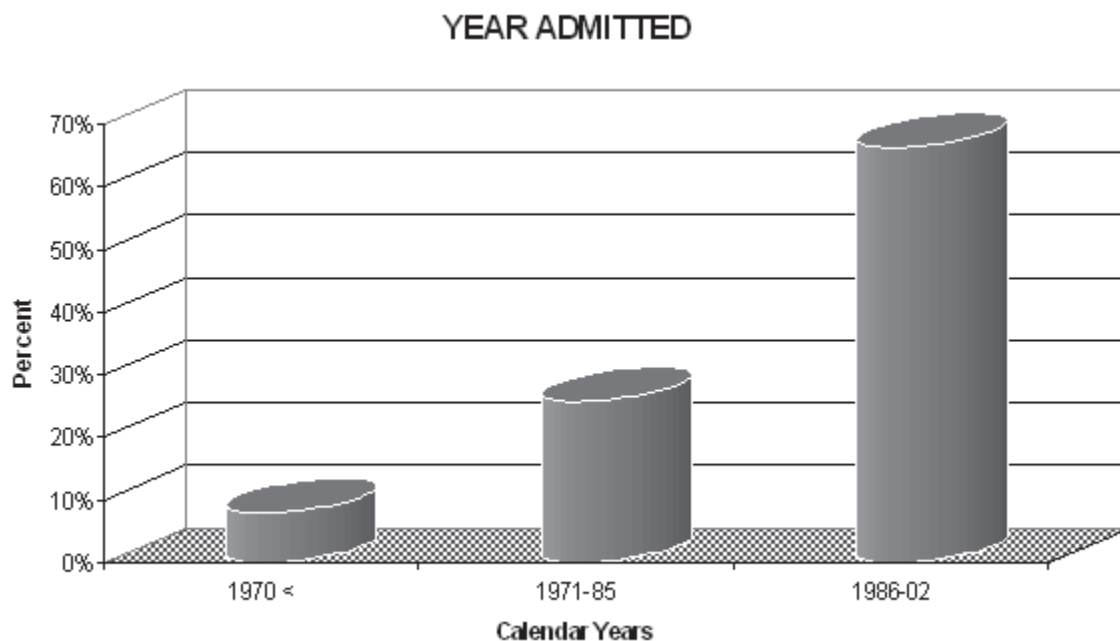


Figure 32



## Attorney Age

Of the 78,083 attorneys for whom some registration information was available, 70,567 (90.4%) provided their date of birth. No response to this question was made by 7,516 attorneys. The resultant age distribution of New Jersey attorneys is graphically shown below. The statistical results are set to the right.

### AGE GROUPS

Age	Number	Percent
< 25	53	0.08%
25-29	2,772	3.93%
30-34	10,788	15.29%
35-39	12,941	18.34%
40-44	12,010	17.02%
45-49	10,009	14.18%
50-54	8,001	11.34%
55-59	6,008	8.51%
60-64	3,243	4.60%
65-69	1,629	2.31%
70-74	1,254	1.78%
75-80	754	1.07%
> 80	1,105	1.57%
<b>TOTALS</b>	<b>70,567</b>	<b>100.00%</b>

### AGE DISTRIBUTION

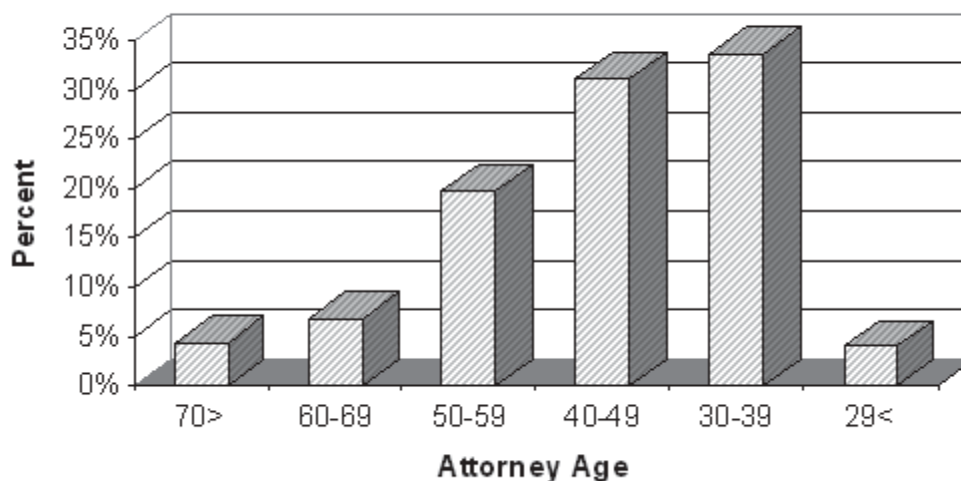


Figure 33



## Admissions In Other Jurisdictions

The 78,083 attorneys for whom some registration information was available were admitted to many other jurisdictions. In fact, almost two-thirds (65.0%) of all attorneys were admitted to the bars of other jurisdictions, while just over one-third (34.9%) were admitted only in New Jersey. These results are graphically set forth below, while the underlying statistics are compiled to the right. A list of the admissions to other jurisdictions with corresponding numbers and percentages is provided following this graphic.

### OTHER ADMISSIONS

Admissions	Attorneys	Percent
Only In NJ	27,305	34.97%
Add'l Jurisd.	50,778	65.03%
<b>TOTALS</b>	<b>78,083</b>	<b>100.00%</b>

### ADMISSIONS IN OTHER JURISDICTIONS

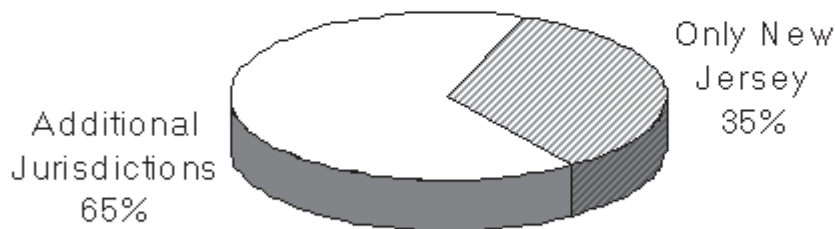


Figure 34

## ADMISSIONS IN OTHER JURISDICTIONS

<u>Jurisdiction</u>	<u>Admissions</u>	<u>Percent</u>	<u>Jurisdiction</u>	<u>Admissions</u>	<u>Percent</u>
New York	28,232	43.86%	New Hampshire	85	0.13%
Pennsylvania	18,182	28.25%	West Virginia	71	0.11%
District of Col.	5,309	8.25%	Nevada	70	0.11%
Florida	2,652	4.12%	South Carolina	62	0.10%
California	1,375	2.14%	Oregon	61	0.09%
Connecticut	1,158	1.80%	Hawaii	61	0.09%
Massachusetts	1,137	1.77%	Rhode Island	58	0.09%
Maryland	890	1.38%	Kentucky	54	0.08%
Virginia	547	0.85%	New Mexico	51	0.08%
Illinois	534	0.83%	Oklahoma	39	0.06%
Texas	431	0.67%	Virgin Islands	39	0.06%
Georgia	376	0.58%	Alabama	39	0.06%
Ohio	359	0.56%	Kansas	38	0.06%
Colorado	357	0.55%	Iowa	33	0.05%
Delaware	304	0.47%	Puerto Rico	31	0.05%
Michigan	239	0.37%	Arkansas	20	0.03%
North Carolina	211	0.33%	Utah	19	0.03%
Arizona	197	0.31%	Alaska	18	0.03%
Washington	125	0.19%	Mississippi	15	0.02%
Minnesota	125	0.19%	Montana	14	0.02%
Maine	119	0.18%	Idaho	13	0.02%
Missouri	117	0.18%	South Dakota	9	0.01%
Louisiana	104	0.16%	North Dakota	8	0.01%
Wisconsin	103	0.16%	Guam	3	0.00%
Vermont	99	0.15%	Nebraska	0	0.00%
Tennessee	88	0.14%	Wyoming	0	0.00%
Indiana	87	0.14%	<b>Total Admissions</b>	<b>64,368</b>	<b>100.00%</b>

Figure 35



## Private Practice in New Jersey

Of the 78,083 attorneys on whom some registration information was tabulated, 31,334 indicated they were in private practice here. Some 485 (less than 1/2%) failed to respond to this question. Just over four in ten attorneys engaged in the private practice of law in New Jersey, while six in ten did not practice in the private sector in New Jersey. The figure below graphically shows these results, while the statistical results are shown to the right.

NEW JERSEY PRIVATE PRACTICE			
Response		Number	Percent
NO		46,749	59.87%
YES		31,334	40.13%
	Full-time	20,908	
	Part-time	6,343	
	Occasionally	3,598	
	Unspecified	485	
TOTAL		78,083	100%

### ATTORNEYS IN PRIVATE PRACTICE IN NEW JERSEY

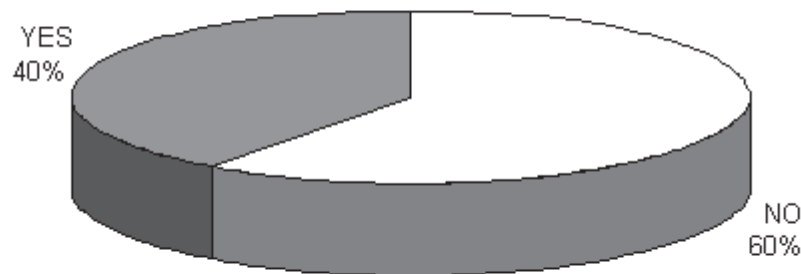


Figure 36



## Structure of Law Firms

Of the 31,344 attorneys who indicated they were engaged in the private practice of law in New Jersey, 99% (31,068) responded to this question. The responses reflect that over one-third (34.4%) practiced in sole proprietorships [sole practitioners plus sole stockholders]. The next largest group was associates (29.8%), followed by partners (24.9%), other than sole stockholders (5.8%), and attorneys who were of counsel (5.1%). Set forth to the right are the supporting statistics, which are graphically shown below.

### PRIVATE PRACTICE STRUCTURE

Structure	Number	Percent
Sole Practitioner	9,866	31.76%
Sole Stockholder	808	2.60%
Other Stockholders	1,799	5.79%
Associate	9,250	29.77%
Partner	7,746	24.93%
Of Counsel	1,599	5.15%
<b>TOTALS</b>	<b>31,068</b>	<b>100.00%</b>

### PRIVATE PRACTICE STRUCTURE IN NEW JERSEY

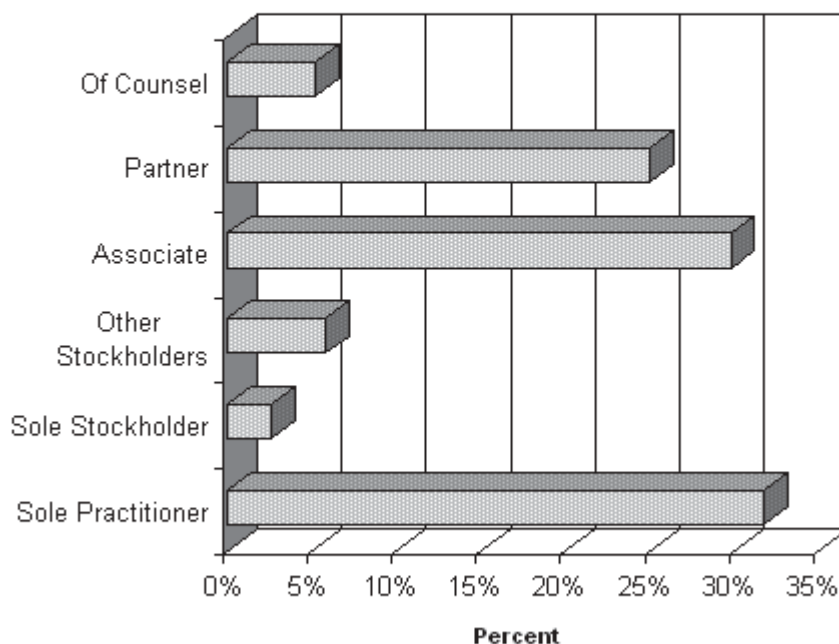


Figure 37



## Size of Law Firms

Of the 31,344 attorneys who indicated that they were engaged in the private practice of law in New Jersey, 99% responded by indicating the size of the law firm of which they were a part. Responses indicated that one-third (33.5%) practiced alone; 10.3% worked in two-person law firms; 15.8% worked in law firms of 3-5 attorneys; 28.0% worked in law firms with 6-49 attorneys and 12.4% worked in firms with 50 or more attorneys. These figures are graphically shown below and are statistically set forth to the right.

### SIZE OF LAW FIRMS

Firm Size	Number	Percent
One	10,488	33.51%
Two	3,234	10.33%
3 to 5	4,938	15.78%
6 to 10	3,449	11.02%
11 to 19	2,677	8.55%
20 to 49	2,644	8.45%
50 >	3,872	12.37%
<b>TOTALS</b>	<b>31,302</b>	<b>100.00%</b>

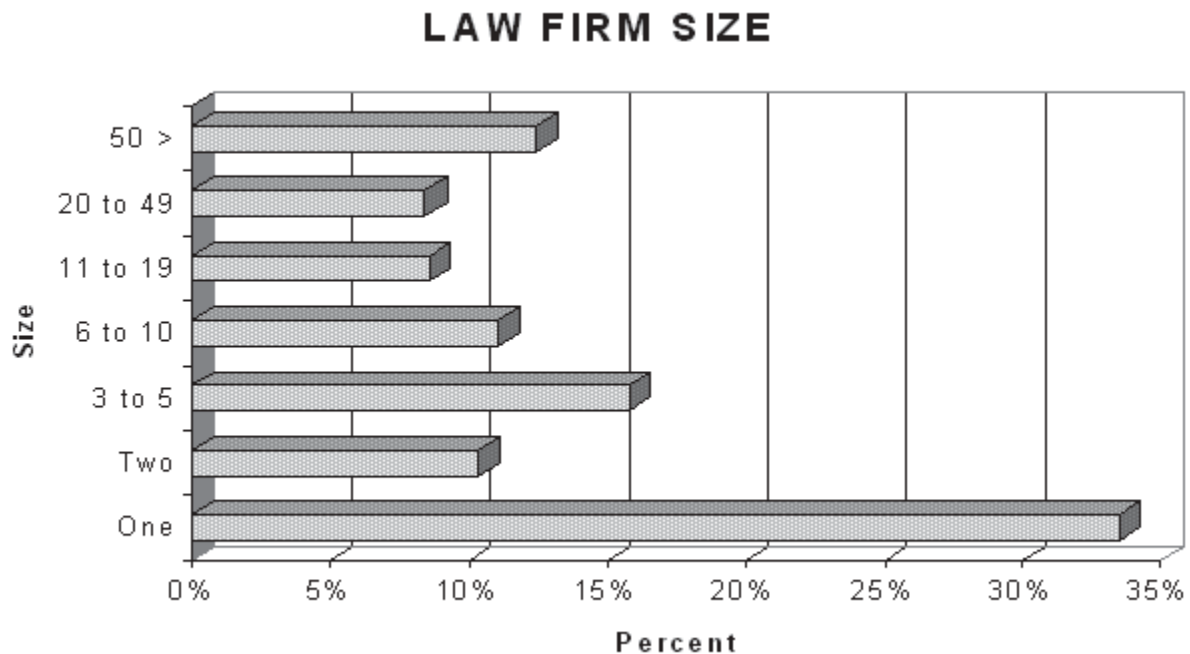


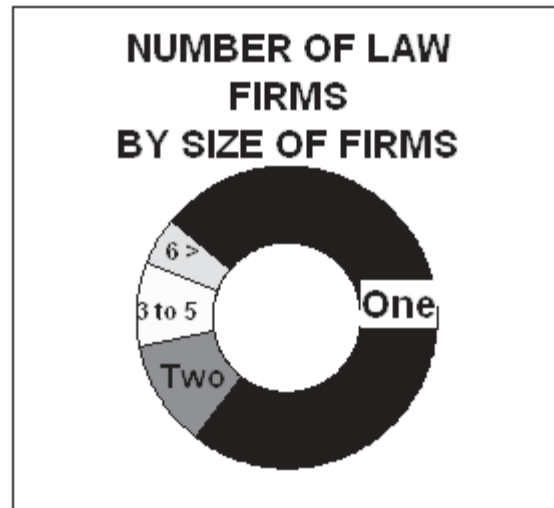
Figure 38





## Number of Law Firms

No exact figures on the number of private practice law firms in New Jersey exists. Nevertheless, a reasonably accurate estimate can be made based on the 31,334 attorneys who indicated they were in private practice. A total of 31,302 responded to indicate the size of their law firm. In each firm size category that was non-exclusive (i.e. other than 1 or 2), the total number of attorneys responding was divided by the number representing the mid-point in that category. For firms in excess of 50 attorneys, the total number of attorneys responding were divided by 50. Almost three-quarters of all law firms (74.3%) were single practice firms. Two person firms represented 11.4% of all private practice firms, while firms of between 3 to 5 comprised 8.7%. Only 5.4% of all of the law firms in New Jersey had 6 or more attorneys. These figures are graphically shown to the right and are statistically set forth below.



## NUMBER OF LAW FIRMS

<u>Size Of Law Firm</u>	<u>Number Of Attorneys</u>	<u>Firm Size Midpoint</u>	<u>Number Of Firms</u>	<u>Individual Category %</u>
One	10,488	1	10,488	74.37 %
Two	3,234	2	1,617	11.47 %
3 to 5	4,938	4	1,235	8.75 %
6 to 10	3,449	8	431	3.06 %
11 to 19	2,677	15	178	1.27 %
20 to 49	2,644	35	76	0.54 %
50 >	3,872	50	77	0.55 %
<b>TOTALS</b>	<b>31,302</b>		<b>14,102</b>	<b>100.00 %</b>

Figure 39



## Bona Fide Law Offices

Of the 31,344 attorneys who indicated they were engaged in the private practice of law in New Jersey, 99% indicated where their primary bona fide office was located. In the northern part of the state, Essex County housed the largest number of private practitioners with 17.5%. The next largest county was Camden County in South Jersey with 14%. Bergen County was third with 12.5%. Morris County came in fourth with 9.0%. The supporting statistics and charts are shown on this and the following page.

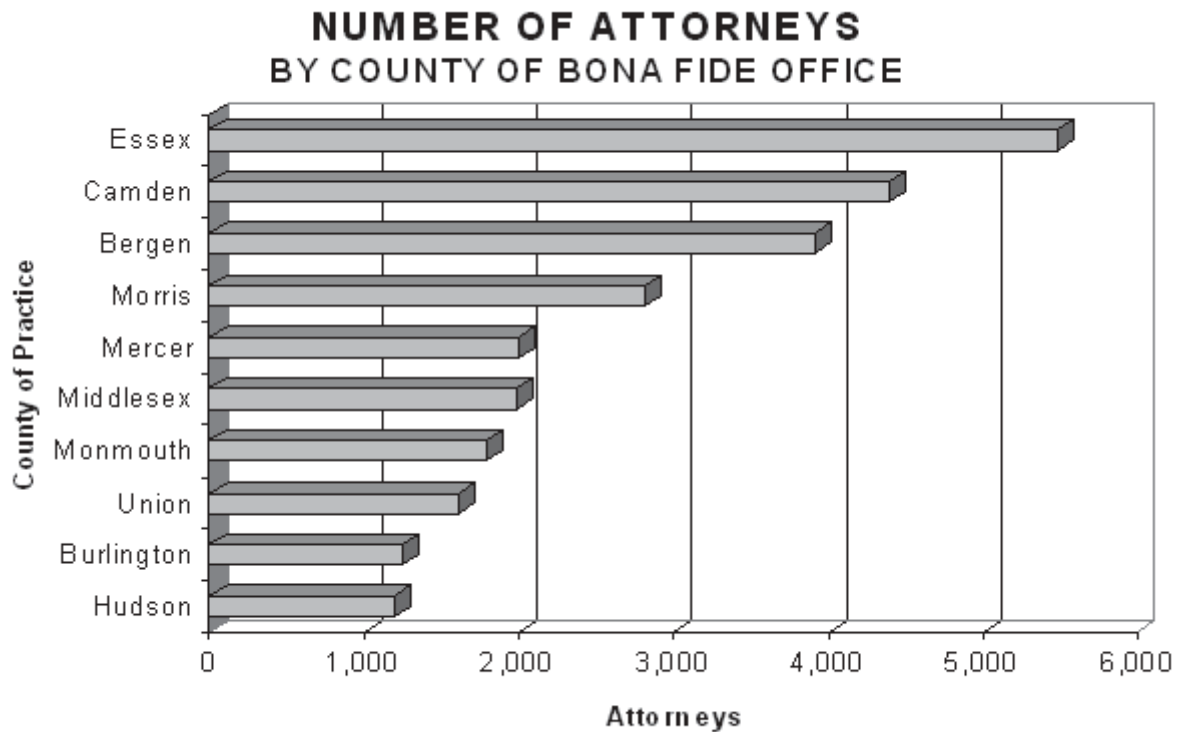


Figure 40

## ATTORNEYS WITH BONA FIDE OFFICES

County	Number	Percent	County	Number	Percent
Atlantic	642	2.05%	Middlesex	1,980	6.34%
Bergen	3,899	12.48%	Monmouth	1,785	5.71%
Burlington	1,243	3.98%	Morris	2,808	8.99%
Camden	4,381	14.02%	Ocean	749	2.40%
Cape May	195	0.62%	Passaic	916	2.93%
Cumberland	207	0.66%	Salem	64	0.20%
Essex	5,469	17.50%	Somerset	964	3.08%
Gloucester	416	1.33%	Sussex	238	0.76%
Hudson	1,186	3.80%	Union	1,602	5.13%
Hunterdon	315	1.01%	Warren	192	0.61%
Mercer	1,997	6.39%	<b>TOTALS</b>	<b>31,248</b>	<b>100.00%</b>

## NUMBER OF ATTORNEYS BY COUNTY OF LAW OFFICE

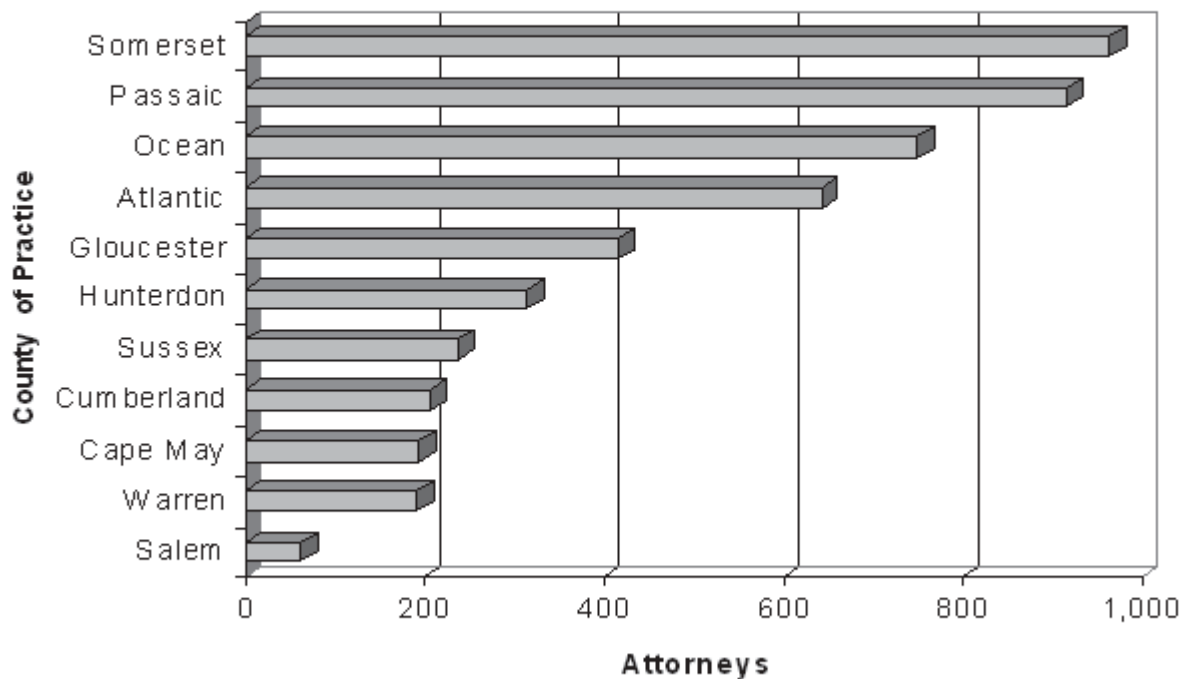


Figure 41



# GLOSSARY



# GLOSSARY OF ATTORNEY DISCIPLINE TERMS

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<b>Admonition</b>	a letter or order that admonishes an attorney for unethical conduct. It is the least serious disciplinary sanction that may be imposed.
<b>Agreement in Lieu of Discipline</b>	the vehicle used to accomplish diversion of "disciplinary" matters where an attorney who qualifies for diversionary treatment admits "minor" misconduct has been committed. <i>R.1:20-3(i)(2)(B)</i> .
<b>Appeal</b>	the right of a grievant, a respondent or the Office of Attorney Ethics to seek review of a decision to dismiss after investigation or hearing.
<b>Complaint</b>	the written document formally charging the respondent with specific violations of ethical misconduct. A complaint is issued after completion of an investigation that meets the standard of <i>R.1:20-4(a)</i> .
<b>Consent Process</b>	the appellate process before the Disciplinary Review Board and the Supreme Court by which the extent of discipline to be imposed as the result of discipline by consent is reviewed, without oral argument. <i>R.1:20-15(g) and R.1:20-16(e)</i> .
<b>Disability Inactive Status</b>	a sanction that is based on an attorney's mental or physical disability which determines that the attorney does not have the ability to engage in the practice of law. <i>R.1:20-12</i> .
<b>Disbarment</b>	an order and injunction by the Supreme Court of New Jersey prohibiting an attorney from practicing law in this state. All disbarments in New Jersey are permanent.
<b>Disciplinary Review Board</b>	the statewide board (composed of both attorneys and public members) that reviews all recommendations from a trier of fact for discipline of a respondent. The Board's decision is reviewed by the Supreme Court of New Jersey, which actually imposes discipline.



**Discipline By Consent**

a procedure whereby a respondent may agree with an investigator, presenter or ethics counsel to admit facts constituting misconduct in exchange for a recommendation for specific discipline or a range of specific discipline, subject to review by the Disciplinary Review Board. *R.1:20-10(b)*.

**Dismissal**

a finding, either after an investigation or hearing, that a respondent did not commit unethical conduct.

**District Ethics Committee**

a group of volunteer attorneys and public members appointed by the Supreme Court of New Jersey whose members serve to investigate, prosecute and adjudicate grievances which are docketed by the Committee Secretary. There are 17 District Ethics Committees in the state.

**District Fee Arbitration Committee**

a group of volunteer attorneys and public members appointed by the Supreme Court of New Jersey whose members serve on hearing panels to decide disputes between attorneys and clients over legal fees. There are 17 District Fee Arbitration Committees in the state.

**Diversion**

a non-disciplinary treatment by consent by attorneys who admit they have committed "minor" misconduct and who otherwise qualify for diversionary treatment. Diversion is accomplished through an "Agreement In Lieu of Discipline." *R.1:20-3(i)(2)(A) and (B)*.

**Ethics Counsel**

an attorney of the Office of Attorney Ethics. *R.1:20-4(g)(1)*.

**Fee Arbitration**

a statewide system that requires attorneys to submit client disputes of legal bills to mandatory arbitration by District Fee Arbitration Committees appointed by the Supreme Court of New Jersey.

**Grievance**

any allegation of ethical misconduct made against an attorney. A grievance, if docketed, is assigned for investigation.

**Grievant**

the person who files an initial grievance against an attorney.

**Hearing Panel**

three members of a district ethics committee consisting of two attorneys and a public member who preside over a hearing based on charges in a formal complaint that are usually deemed standard in nature.

<b>Inquiry</b>	any written communication to a District Ethics or Fee Committee or the Office of Attorney Ethics. Inquiries may become grievances.
<b>Investigation</b>	a factual review and legal analysis of evidence that is conducted by an attorney member of a District Ethics Committee or a member of the Office of Attorney Ethics.
<b>Minor Misconduct</b>	refers to those minor types of misconduct which, if proved, would not warrant discipline greater than an admonition. Minor misconduct matters are eligible for diversionary treatment. <i>R.1:20-3(i)(2)</i> .
<b>Misconduct</b>	all ethical violations that would subject an attorney to discipline are referred to as misconduct. <i>R.1:20-3(i)(1)</i> .
<b>Office of Attorney Ethics</b>	the professional, full-time component of the attorney discipline system consisting of attorneys, investigators and auditors. The OAE investigates serious, complex and emergent grievances. It is also responsible for administering the attorney discipline system statewide.
<b>Panel Chair</b>	an attorney-member of a district ethics committee who presides over a hearing based on charges in a formal complaint that are generally deemed standard in nature.
<b>Presenter</b>	the volunteer attorney member of a District Ethics Committee who is appointed to prosecute a formal complaint. <i>R.1:20-4(g)(1)</i> .
<b>Random Audit Program</b>	a program that randomly selects private practice law firms for audit of their attorney trust and business accounts to insure that mandatory record keeping rules and practices are adhered to.
<b>Reinstatement</b>	an order of the Supreme Court of New Jersey that reinstates a formerly suspended attorney from practicing law. Since disbarment is permanent in New Jersey, there is no procedure for disbarred attorneys to seek reinstatement. <i>R.1:20-21</i> .
<b>Reprimand</b>	an order or opinion of the Supreme court of New Jersey that reprimands an attorney for unethical conduct. A reprimand is a more serious sanction than an admonition.

<b>Respondent</b>	the attorney charged in a grievance or formal complaint with allegations of unethical conduct.
<b>Rules of Professional Conduct</b>	rules adopted by the Supreme Court of New Jersey that set forth detailed ethical standards by which the actions of New Jersey attorneys are judged.
<b>Sanction</b>	the form of discipline imposed on attorneys who have committed unethical conduct. Sanctions include disbarment, disbarment by consent, suspension, reprimand, admonition and disability-inactive status.
<b>Special Ethics Master</b>	an attorney (either a former chair, vice chair or secretary of a district ethics committee or a present or former judge) who presides over a hearing based on charges in a formal complaint that are deemed complex in nature.
<b>Suspension</b>	an order and injunction by the Supreme Court of New Jersey prohibiting an attorney from practicing law in this state for a period of time. Suspensions are usually for a definite term of between 3 months to 3 years, but may be imposed for indefinite periods.
<b>Trier of Fact</b>	an ethics committee hearing panel, single member adjudicator or special ethics master who presides at an ethics hearing and decides whether or not unethical conduct has been proved.